

REAL ESTATE PURCHASE AND SALE AGREEMENT

This REAL ESTATE PURCHASE AND SALE AGREEMENT ("Agreement") is between the City of Olympia, a municipality organized under the laws of the State of Washington ("Seller"), and South Puget Sound Habitat for Humanity, a Washington nonprofit corporation ("Buyer"), individually referred to as a "Party," and jointly as the "Parties." This Agreement shall not be effective until the "Effective Date" (as defined in Paragraph 18.16 below).

RECITALS

Seller is the owner of certain real property located in the City of Olympia, Thurston County, Washington, commonly located at 3900 Boulevard Road SE, Olympia, Thurston County, Washington ("Property"), and more particularly described on **Exhibit "A"** (legal description) and location as shown on **Exhibit "B"** (sketch), **both** exhibits attached hereto and by this reference incorporated herein.

Pursuant to the Washington State Constitution, Article VIII, § 7, Seller is permitted to make provision for the necessary support of the poor and infirm. The Seller intends, and the Parties agree, that the sale of the real property contemplated within this Agreement shall be used in large part to construct and provide affordable low income housing serving persons with adjusted median income (AMI) in Thurston County, Washington of eighty percent (80%) AMI or less, as reported by the United States Department of Housing and Urban Development (HUD). Affordable housing, as that term is used herein, shall be defined as set forth in Olympia Municipal Code (OMC) Section 5.86.010(H) as residential housing within the means of low or moderate-income households. All housing units shall be occupied by persons who meet these criteria at the time of initial occupancy.

Buyer believes the Property is suitable for providing affordable low-income housing. The Parties agree that the residential housing units to be constructed upon the Property shall be affordable low-income housing units that may include owner-occupied housing units in addition to senior housing, townhomes, condominiums, and rental occupied apartment units. Buyer agrees that it will create a minimum of one hundred (100) total units of housing upon the Property, with a minimum of sixty-five (65) owner-occupied affordable houses. The number of total housing units may be adjusted based on site conditions and limitations. Any reduction in the number of housing units shall be agreed to in writing by the Parties.

A restrictive covenant providing the Property shall be used for affordable low-income housing units in perpetuity, except as otherwise agreed in writing, shall be executed by the Parties and shall be recorded in the chain of title of the Property upon Closing either as part of the deed or in a separate document.

In addition to affordable low-income housing, the Parties agree that one acre, more or less, shall be used for development of a commercial center for retail, child care, or other commercial use on the ground floor, with fifty percent (50%) of housing units above the ground

floor to be for persons with an adjusted median income (AMI) in Thurston County, Washington of eighty percent (80%) AMI or less, as reported by the United States Department of Housing and Urban Development (HUD), except as otherwise agreed in writing by the Parties, for a period of twenty-five (25) years.

The Parties acknowledge that a development of a commercial center on one acre portion of the Property may require a rezone approval by the City or the City's discretion as permitted by OMC 18.04.060.N.2 to provide for landscape screening or buffers. The City agrees that any such rezone approval or landscape screening or buffers is a condition precedent to Buyer's obligation to develop a commercial center.

The signatories to this Agreement acknowledge they are authorized to execute associated documents, to correct legal descriptions, if need be, and to correct scrivener's errors and other errors or omissions that are otherwise in substantial conformance with this Agreement.

The Parties now enter into this Agreement to memorialize the terms and conditions under which Seller will sell the Property to Buyer and Buyer will purchase the Property from Seller.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, the following:

1.1 **Land.** The real property and any structures thereon, constituting the Property legally described on **Exhibit "A"** to this Agreement and generally shown on a sketch attached as **Exhibit "B"** to this Agreement.

1.2 **Appurtenances.** All rights, privileges, and easements appurtenant to the Property owned by Seller, including without limitation any and all leases, subleases, easements, rights-of-way and other appurtenances, including any buildings, structures or fixtures, if any, used in connection with the beneficial use and enjoyment of the Property (the "Appurtenances").

The Property and Appurtenances described in Paragraph 1 above are collectively referred to in this Agreement as the "Property."

2. Escrow. Within thirty (30) business days after the Effective Date of this Agreement as defined in Paragraph 18.16, the Parties shall confirm that an escrow account is opened for the transaction contemplated by this Agreement with Thurston County Title Company (in such capacity, "Escrow Company"). Escrow Company will serve as escrow agent for Closing of this Agreement ("Escrow Agent"). The Parties shall deliver a fully executed copy of this Agreement to Escrow Agent.

3. Purchase Price. The purchase price to be paid by Buyer to Seller for the Property (the "Purchase Price") is **One Dollar and NO/100 Cents (\$1.00)** U.S., together with additional consideration of the recording of Restrictive Covenants as in **Exhibit "E"** to this

Agreement, and providing for electrification of all new construction upon the Property except where exemptions are necessary due to physical space limitations, availability of technology, or cost constraints as set forth in Section 2 of Olympia City Council Resolution No. M-2289, a copy of which is attached hereto and incorporated herein as “**Exhibit F**” to this Agreement.

4. Payment of Purchase Price. On the Closing Date, Buyer shall deposit with Escrow Agent the amount of the Purchase Price, less any amounts to be credited against the Purchase Price pursuant to this Agreement and shall execute for recording the Restrictive Covenants in the substantial form as set forth in **Exhibit “E”** to this Agreement.

5. Closing Date. The Closing (“Closing”) of the purchase and sale of the Property under this Agreement shall be held at the offices of the Escrow Company and shall occur twenty (20) business days following written removal of the feasibility/contingency by Buyer, or the end of the feasibility/contingency period set forth in Paragraphs 7.4 and 7.5 of this Agreement, unless otherwise mutually agreed in writing by the Parties. Closing shall occur when the Deed to Buyer and the Restrictive Covenant (as hereinafter defined) are executed and recorded, and the Purchase Price is delivered to the Escrow Company for delivery to Seller.

6. Title and Survey Matters.

6.1 Title Binder. Buyer shall order a preliminary commitment for an ALTA owner’s extended coverage title insurance policy provided by Thurston County Title Insurance Company (“Title Company”) describing the Property, showing all matters of record pertaining to the Property and listing Buyer as the prospective named insured. Following the mutual execution of this Agreement, Buyer shall obtain from Title Company a written supplemental report to such preliminary commitment in a form acceptable to Buyer, updating the preliminary commitment to the execution date of the Agreement. Such preliminary commitment, supplemental reports and true, correct and legible copies of all documents referred to in such preliminary commitment and supplemental reports as conditions or exceptions to title to the Property are collectively referred to herein as the “Title Binder.”

6.2 Title Review. Within fifteen (15) business days after Buyer’s receipt of the updated Title Binder, Buyer shall review the Title Binder and any surveys of the Property, and shall notify Seller what exceptions to title, if any, affect the marketability or insurability of the title to the Property or which adversely affect the use of the Property (the “Title Review Period”). If no title matters appear in the updated Title Binder since the initial preliminary commitments, then the Parties shall proceed to Closing as set forth in this Agreement. If any title matters appear and Buyer objects to any of the same during the Title Review Period, then Seller shall have fifteen (15) business days after receiving Buyer’s objections to notify Buyer if Seller will remove any of the exceptions objected to prior to the Closing Date or if Seller elects not to remove such objected to exceptions. If Seller shall fail to remove any such exceptions objected to by Buyer from title prior to the Closing Date, and Buyer is unwilling to take title subject thereto, Buyer may elect to either terminate this Agreement, or take title despite the existence of such exception. If Buyer elects to terminate, neither Buyer nor Seller shall have any further liabilities, obligations or rights with regard to this Agreement which shall then become null and void and of no further force or effect.

6.3 **Title Policy.** At Closing, Seller and Buyer shall cause Title Company to issue a standard ALTA owner's policy ("Title Policy") to Buyer, at Buyer's sole cost. The Title Policy shall (a) be satisfactory to Buyer, (b) be issued in the amount of the total Purchase Price and (c) insure fee simple, indefeasible title to the Property in Buyer. The Title Policy shall contain endorsements as Buyer may require. Buyer's obligation to close this transaction shall be contingent on Buyer's approval, in its sole and absolute discretion of the Title Policy required under this Paragraph 6.

7. **Conditions and/or Contingencies to Buyer's Obligations.**

7.1 **Documents and Reports.** Within fifteen (15) business days after the execution and delivery of this Agreement (the "Document Delivery Date"), Seller shall deliver to Buyer copies of the documents and reports listed on attached **Exhibit "C"** to this Agreement and in Seller's possession. Seller shall certify to Buyer, as of the Document Delivery Date, as to any documents listed on **Exhibit "C"** not in Seller's possession.

7.2 **Inspection of the Property.** Buyer shall have the right and permission from the date Seller signs this Agreement through the Closing Date (or earlier termination of this Agreement) to enter upon the Property or any part thereof at all reasonable times and from time to time for the purpose, at Buyer's cost and expense, of making all tests and/or studies of the Property that Buyer may wish to undertake, including, without limitation, soils tests (including borings), toxic and hazardous waste studies, surveys, structural studies and review of zoning, fire, safety and other compliance matters; provided, however, Buyer shall indemnify and hold harmless Seller from and against any mechanic's or other liens or claims that may be filed or asserted against the Property or Seller as a direct result of any actions taken by Buyer in connection with the Property, including but not limited to permitting Seller to review a written description of Buyer's proposed testing and work to ensure same is properly done and will not exacerbate any existing condition of contamination on the Property. Buyer shall also provide Seller with a copy of all soil or environmental test results for the Property. Buyer shall reasonably restore the Property to its condition immediately prior to any invasive testing. The effect of the representations and warranties made by Seller in this Agreement shall not be diminished or deemed to be waived by any inspections, tests or investigations made by Buyer or its agents.

7.3 **Appraisal of the Property.** Buyer shall have the right to obtain an appraisal. Buyer's appraiser may enter onto the Property upon reasonable notice to Seller as is necessary to appraise the Property.

7.4 **Approval of Property/Feasibility Contingency.** Buyer's obligation to purchase the Property shall be subject to and contingent upon Buyer's approval, in its sole and absolute discretion, prior to the expiration of the Contingency Period, of all aspects of the Property, including, without limitation, the physical condition of the Property and documents delivered by Seller pursuant to Paragraph 7.1 above, or otherwise obtained by Buyer regarding the Property. Buyer's approval and obligation to purchase the Property under this paragraph shall be for the period set forth in Paragraph 7.5. Upon waiver by Buyer or expiration of the feasibility contingency, the Parties shall move on to Closing.

7.5 **Feasibility Contingency Period.** As used herein, the term “Contingency or Feasibility Period” shall mean the period from the Effective Date of this Agreement as defined in Paragraph 18.16 until the period ending ninety (90) business days thereafter.

7.6 **Buyer’s Right to Terminate.** If in Buyer’s sole and absolute discretion, Buyer is not satisfied with the condition of the Property, Buyer may terminate this Agreement by sending written notice to Seller and Escrow Agent (such notice referred to as a “Termination Notice”) prior to the expiration of the Contingency/Feasibility Period. If Buyer gives its Termination Notice to Seller, this Agreement shall terminate and neither Buyer nor Seller shall have any further liability to the other under this Agreement.

7.7 **Additional Closing Conditions.** Buyer’s obligation to purchase the Property shall also be subject to the following conditions that must be satisfied as of Closing.

(i) Prior to Closing, all Contracts or Leases (whether written or oral) with respect to the Property, if any, shall be terminated in writing by Seller. Seller shall provide Buyer, prior to Closing, with written termination agreements with respect to all Contracts or Leases, that are not assumed by Buyer;

(ii) All representations and warranties of Seller contained herein, to the best of Seller’s knowledge, shall be true, accurate and complete at the time of the Closing as if made again at such time;

(iii) Seller shall have performed all obligations to be performed by it hereunder on or before Closing (or, if earlier, on or before the date set forth in this Agreement for such performance);

(iv) At Closing, title to the Property shall be in the condition required by Paragraph 6 of this Agreement and Escrow Agent shall deliver the Title Policy to Buyer; and

If the conditions set forth in this Paragraph 7 are not satisfied as of Closing and Buyer does not waive the same, Buyer may terminate this Agreement, and thereafter neither Buyer nor Seller shall have any further liability to the other under this Agreement.

8. Seller’s Representations and Warranties. Seller hereby makes the following representations and warranties, to the best of Seller’s knowledge, which representations and warranties shall be deemed made by Seller to Buyer also as of the Closing Date:

8.1 **Title.** Seller is the sole owner of the Property, except for restrictions and reservations of record. At Closing, Seller shall convey the entire fee simple estate and right, title and interest in and to the Property by statutory warranty deed to Buyer as provided in the substantial form as provided in **Exhibit “D”** attached hereto, free and clear of unapproved encumbrances of record, and Buyer shall execute a restrictive covenant limiting use of the Property to affordable low-income housing as provided in the substantial form as provided in **Exhibit “E”** attached hereto.

8.2 **Compliance with Law; Compliance with Property Restrictions.** The Property complies in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules and regulations of any governmental authority having jurisdiction over the Property related to zoning, building, subdivision, and engineering.

8.3 **Bankruptcy, etc.** No bankruptcy, insolvency, rearrangement or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Seller.

8.4 **Taxes and Assessments.** Other than amounts disclosed by the Title Binder, no other property taxes have been or will be assessed against the Property for the current tax year, and there are no general or special assessments or charges that have been levied, assessed or imposed on or against the Property.

8.5 **Foreign Person.** Seller is not a foreign person and is a “United States Person” as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the “Code”) and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code.

8.6 **Mechanics’ Liens.** No labor, material, or services have been furnished in, on, or about the Property or any part thereof as a result of which any mechanics’, laborer’s or materialmen’s liens or claims might arise.

8.7 **Underground Storage Tanks.** Seller has no knowledge of (a) subterranean storage or underground storage tanks that exist on the Property, and (b) any previously existing underground storage tanks that have been removed or filled in compliance with applicable law. If there had been an underground storage tank on the site, to the best of Seller’s knowledge, the tank was decommissioned in compliance with applicable law.

8.8 **Leases and Other Agreements.** Seller represents that there are no leases, occupancy agreements, service agreements, licenses, easements, or option agreements with regard to the Property, except those of record or disclosed pursuant to Paragraph 7.1.

8.9 **Assumption of Liabilities.** Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Closing Date.

8.10 **Defaults.** Seller is not in default and there has occurred no uncured event, which, with notice, the passage of time or both would be a default, under any contract, agreement, lease, encumbrance, or instrument pertaining to the Property.

8.11 **Utilities.** The Property may or may not be served by water, storm and sanitary or septic sewer, electricity, and telephone supplied directly to the Property by facilities of public utilities. All such utilities are located within the boundaries of the Property or within lands dedicated to public use or within recorded easements for the same.

8.12 **Public Improvements.** Seller has no knowledge of any federal, state, county, municipal or other governmental plans to change the road system in the vicinity of the Property.

8.13 **Subdivision.** The conveyance of the Property will not constitute a violation of any subdivision ordinance. The improvements on the Property comply in all material respects with all applicable subdivision ordinances and statutes.

8.14 **Due Authority.** Seller and Buyer have all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be duly executed and delivered by Seller and Buyer and constitute their legal, valid and binding obligation enforceable against Seller and Buyer in accordance with its terms.

8.15 **No Omissions.** The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

9. Covenants of Seller. Seller covenants and agrees as follows:

9.1 **Perform Obligations.** From the date of this Agreement to the Closing Date, Seller will perform any monetary and non-monetary obligations they have regarding the Property.

9.2 **No Liens.** From the date of this Agreement to the Closing Date, Seller will not allow any lien to attach to the Property, nor will Seller grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option or other right affecting the Property or any part thereof without Buyer's written consent first having been obtained.

9.3 **Provide Further Information.** From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

9.4 **Priority Review.** Seller agrees to expedite review of Buyer's project application for the Property, including but not limited to building permits, and other land use approvals.

10. Covenants of Buyer. Buyer covenants and agrees as follows:

10.1 **Perform Obligations.** Buyer shall perform all obligations from the date of this Agreement, including all provisions herein that shall survive the Closing, including those relating to its obligations to provide affordable low-income housing units upon the Property.

10.2 **Application for Impact Fee Reduction.** Buyer shall apply for impact fee reductions as permitted by OMC Section 15.04.060.A.10 and D for any form of low-income housing occupied by households whose income when adjusted for size is at or below eighty percent (80%) of the area median income as annually adjusted by the U.S. Department of Housing and Urban Development (HUD) from paying school impact fees, provided a covenant is approved by the Olympia School District No. 111 to assure continued use for low income housing and that the covenant is recorded against the title to the Property. As provided in OMC 15.04.060.D, upon application a partial exemption of not more than eighty percent (80%) of park, transportation and school impact fees, with no explicit requirement to pay the exempted portion of the fee from public funds, may be granted to a low-income housing development.

10.3 **Application for Land Use Approval.** Buyer covenants and agrees it shall promptly submit its Property project to Seller for land use approval following written removal of the contingency/feasibility period set forth in Paragraphs 7.4 and 7.5 herein; however, Buyer further agrees to schedule with Seller's planning staff a preapplication conference prior to submittal of Buyer's land use application for the Property.

10.4 **Seller's Option to Repurchase.** Buyer agrees that Seller shall have an option to repurchase the Property at the same price as the Property is sold to Buyer in this Agreement in the event Buyer fails to commence construction of the housing units contemplated in this Agreement within thirty-six (36) months of the Closing date. Seller agrees that Buyer will have an option to extend its period of construction for an additional year based upon an economic or financial circumstance beyond Buyer's control upon a showing of its best efforts to move forward with the construction of affordable low-income housing units contemplated in this Agreement. In no event shall any period of delay caused by the City permit approval process be counted against Buyer. Such approval process shall toll the deadlines in this paragraph.

11. Closing.

11.1 **Time and Place.** Provided that all the contingencies set forth in this Agreement have been previously fulfilled, the Closing shall take place at the place and time determined as set forth in Paragraph 5 of this Agreement.

11.2 **Documents to be Delivered by Seller.** For and in consideration of, and as a condition precedent to the payment to Seller of the Purchase Price, Seller shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

(i) **Title Documents.** Such other documents, including, without limitation, lien waivers, indemnity bonds, indemnification agreements, and certificates of good standing as shall be required by Buyer, or by the Title Company as a condition to its insuring Buyer's good and marketable fee simple title to the Property.

(ii) **Authority.** Such evidence as the Title Company shall require as to authority of Seller to convey the Property to Buyer.

(iii) **Surveys and Drawings.** All surveys, site plans and plans and specifications relating to the Property as are in the possession or control of Seller, if any.

(iv) **Assignment.** Seller and Buyer agree any assignment of Buyer's rights under this Agreement shall be subject to Seller's approval, which shall not be unreasonably withheld, conditioned or denied except as provided in this Agreement.

(v) **Warranty Deed.** A statutory warranty deed ("Deed") conveying to Buyer a good, marketable, and indefeasible title in fee simple absolute to the Property in the substantial form set forth in **Exhibit "D"** attached hereto, with a covenant restricting use of the property for the specific purpose of providing low-income affordable housing as provided in this Agreement, which may be part of the Deed or be in a separate document.

11.3 **Payment of Costs.** At Closing, Buyer shall pay all charges for title insurance for a standard ALTA owner's title policy insuring Buyer's title, the escrow fee, all recording fees for the deed and restrictive covenants, the technology fee, and real property excise taxes, if any, and any other costs of Closing.

11.4 **Taxes.** Seller is exempt from payment of real property excise taxes for the Property pursuant to WAC 458-61A-205(2).

11.5 **Monetary Liens.** Seller shall pay or cause to be satisfied at or prior to Closing all monetary liens on or with respect to all or any portion of the Property, including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements, except where Seller is exempt by statute or administrative rule or regulation.

11.6 **Possession.** Possession of the Property shall be delivered to Buyer at Closing. The Property, including without limitation the improvements, if any, shall be delivered to Buyer in good order.

11.7 **Proration.** All amounts required to be prorated hereunder as of Closing, shall be calculated as if Buyer were in possession of the Property as of the date of Closing.

12. Environmental.

12.1 Notwithstanding anything to the contrary in this Agreement or otherwise, the Parties agree that Seller shall have no obligation to defend, indemnify, or hold Buyer harmless with respect to any loss, liability, claim, demand, damage, or expense of any kind, including attorneys' fees, costs, and expenses (collectively, "Loss") arising (a) out of the release or threatened release of Hazardous Substances on, under, above, or about the Property after Closing, or (b) out of the past release or threatened release of any Hazardous Substance on, under, above, or about the Property caused or contributed to by Buyer, or any employee, agent, tenant, or contractor of Buyer.

12.2 **Definitions.** The term “Hazardous Substance” includes without limitation (a) those substances included within the definitions of “hazardous substances,” “hazardous materials,” “toxic substances,” “hazardous wastes,” or “solid wastes” in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; (d) chlorinated solvents; and (e) asbestos. The term “Environmental Law” includes any federal, state, municipal or local law, statute, ordinance, regulation, order or rule pertaining to health, industrial hygiene, environmental conditions, or hazardous substances.

13. Indemnification. Seller shall pay, protect, pay the defense costs of, indemnify and hold Buyer and their successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty or agreement of Seller set forth in this Agreement, (b) the failure of Seller to perform any obligation required by this Agreement to be performed by Seller, (c) the ownership, maintenance, and/or operation of the Property by Seller prior to the Closing not in conformance with this Agreement, or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of the Seller, its representatives, employees, contractors or suppliers that occurred before Closing; provided, however, that nothing in this Paragraph 13 applies to Losses arising out of the presence of Hazardous Substances on, under, above, or about the Property, including Hazardous Substances that migrate or migrated to or from the Property except as specifically provided in Paragraph 12 above.

14. Condemnation. In the event of any commenced, to be commenced or consummated proceedings in eminent domain or condemnation (collectively “Condemnation”) respecting the Property or any portion thereof, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement, neither Buyer nor Seller shall have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing Date, this Agreement shall continue in effect, there shall be no reduction in the Purchase Price, and Seller shall, prior to the Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, Seller’s entire right, title and interest in and to any condemnation award or settlement made or to be made in connection with such Condemnation proceeding. Buyer shall have the right at all times to participate in all negotiations and dealings with the condemning authority and approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

15. Casualty. If any fire, windstorm or casualty occurs and materially affects all or any portion of the Property on or after the date of this Agreement and prior to the Closing, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement, neither Buyer nor Seller has any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing Date, this Agreement shall continue in effect. The Purchase Price shall not be reduced by the amount of loss or damage occasioned by such casualty not covered by insurance, and Seller shall, prior to the Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title and interest in and to all insurance claims and proceeds to which Seller may be entitled in connection with such

casualty. Buyer shall have the right at all times to participate in all negotiations and other dealings with the insurance carrier providing such coverage and to approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such casualty respecting the Property.

16. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (collectively, “Notices”) shall be in writing and shall be validly given or made to another party if delivered either personally or by FedEx, UPS, USPS or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such Notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such Notice is delivered by FedEx or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such Notice is mailed as provided herein, such shall be deemed given seventy-two (72) hours after the deposit thereof in the United States mail. Each such Notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Seller: Steven J. Burney, City Manager
City of Olympia
601 4th Ave E
P.O. Box 1967
Olympia, WA 98507-1967
Email: jburney@ci.olympia.wa.us

With a copy to: Mark Barber, City Attorney
City of Olympia
601 4th Ave E
P.O. Box 1967
Olympia, WA 98507-1967
Email: mbarber@ci.olympia.wa.us

To Buyer: Carly Colgan, Chief Executive Officer
South Puget Sound Habitat for Humanity
1216 2nd Ave SW
Tumwater, WA 98512-6907
P.O. Box 2225
Olympia, WA 98507-2225
Email: carly@spshabitat.org

With a copy to: Teena Williams
Goldstein Law Office PLLC
1800 Cooper Point RD SW, No. 8
Olympia, WA 98502
Email: Teena@jaglaw.net

Any party hereto may change its address for receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

17. Event of Default. In the event of a default under this Agreement by a Party (including a breach of any representation, warranty or covenant set forth herein), the aggrieved Party shall be entitled, in addition to all other remedies, to seek monetary damages and/or specific performance of the opposing Party's obligations hereunder.

18. Miscellaneous.

18.1 Applicable Law. This Agreement shall in all respects, be governed by the laws of the State of Washington.

18.2 Further Assurances. Each of the Parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the Parties hereto.

18.3 Modification or Amendment, Waivers. No amendment change or modification of this Agreement shall be valid, unless in writing and signed by all of the Parties hereto. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

18.4 Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the Parties hereto and their respective heirs, legal representatives, successors and assigns. Any assignment shall be subject to Seller's approval, which shall not be unreasonably withheld, conditioned, or denied except by the terms of this Agreement. Buyer must notify and, if required, request approval by Seller of any such assignment prior to the Closing. Any such assignee shall for all purposes be regarded as Buyer under this Agreement.

18.5 Entire Agreement and No Third-Party Beneficiaries. This Agreement constitutes the entire understanding and agreement of the Parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The Parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the Parties.

18.6 Attorneys' Fees. Should either Party bring suit to enforce this Agreement, the prevailing party in such lawsuit shall be entitled to an award of its reasonable attorneys' fees and costs incurred in connection with such lawsuit.

18.7 Construction. Captions are solely for the convenience of the Parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared it. If the date on which Buyer or

Seller are required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

18.8 Partial Invalidity. If any term or provision of this Agreement or the application thereof 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 as 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.

18.9 Survival. The recitals, covenants, agreements, obligations to indemnify, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof and are fully enforceable by either Party in law or equity, including specific performance.

18.10 Finders' or Brokers' Fees. Seller represents and warrants that it has not engaged the services of any broker or finder to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement. Seller agrees to indemnify, defend and hold harmless Buyer against any loss, liability, damage, cost, claim or expense, including interest, penalties and reasonable attorneys' fees that Buyer shall incur or suffer by reason of a breach by Seller of the representation and warranty set forth above.

18.11 Time. Time is of the essence of every provision of this Agreement.

18.12 Risk of Loss. All of Seller's personal property, of any kind or description whatsoever that is on the Property after Closing, shall be at Seller's sole risk of loss.

18.13 Force Majeure. Performance by Seller or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

18.14 Recitals. The Recitals set forth above are incorporated by this reference into this Agreement and are made a part hereof and shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof and are fully enforceable by either Party in law or equity, including specific performance.

18.15 Counterparts. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one Agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Additionally, (i) the signature pages taken from separate individually executed counterparts of this Agreement may be combined to form multiple fully executed counterparts; and (ii) a facsimile or digital or electronic signature or an electronically scanned signature, where permitted by law, shall be deemed to be an original signature for all purposes. All executed

counterparts of this Agreement shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same Agreement.

18.16 **Effective Date.** The term “date of this Agreement” or “date hereof” or “Effective Date,” as used in this Agreement, shall mean the later of the following dates: (1) the date of Buyer’s signature on this Agreement; or (2) the date of Seller’s signature on this Agreement.

Signatures Appear on Next Page

BUYER:

SOUTH PUGET SOUND HABITAT FOR HUMANITY, a Washington nonprofit corporation



Carly Colgan, Chief Executive Officer

Date: 02/15/2023

SELLER:

CITY OF OLYMPIA, a Washington municipal corporation

Steven J. Burney, City Manager

Date: _____

APPROVED AS TO FORM:

Mark Barber
Mark Barber, City Attorney

Date: 02/15/2023

EXHIBIT "A"
LEGAL DESCRIPTION

Lot 3 of Log Cabin Large Lot Subdivision No. LLS 17-4390 OL as recorded February 2, 2018, under Auditor's File No. 4609770, records of Thurston County, Washington.

Situate in the County of Thurston, State of Washington.

EXHIBIT “C”
DOCUMENTS AND REPORTS

1. Copies of all leases or other occupancy agreements relating to the Property, if any, with originals to be delivered at Closing.
2. Copies of all licenses permits and approvals, if any, issued by governmental authorities for the use and occupancy of the Property or any facility located thereon.
3. Any other information about the Property reasonably requested by Buyer if in the possession or control of Seller.
4. Any service contracts or other similar agreements related to the Property.
5. Reports of environmental conditions related to the Property, if any.
6. Surveys, if any.
7. Soils reports, if any.

EXHIBIT “D”
FORM OF STATUTORY WARRANTY DEED

After recording return to:

South Puget Sound Habitat for Humanity
P.O. Box 2225
Olympia, WA 98507-2225

Document Title:	Statutory Warranty Deed
Grantor:	City of Olympia, a Washington municipal corporation
Grantee:	South Puget Sound Habitat for Humanity, a Washington nonprofit corporation
Abbreviated Legal Description:	Section 30 Township 18 Range 1W Quarter S2 SW LL 174390 OL LT 3 Document 4609770
Assessor’s Tax Parcel Number:	11830330103

The Grantor, CITY OF OLYMPIA, a Washington municipal corporation, for and in consideration of the sum of ONE and NO/100---(\$1.00) Dollar, and other good and valuable considerations, in hand paid, hereby conveys and warrants to the Grantee, SOUTH PUGET SOUND HABITAT FOR HUMANITY, a Washington nonprofit corporation, the following legally described real estate and all rights thereto, situated in the City of Olympia, County of Thurston, in the State of Washington, including all after acquired title:

LOT 3 OF LOG CABIN LARGE LOT SUBDIVISION NO. LLS 17-4390
OL AS RECORDED FEBRUARY 2, 2018, UNDER AUDITOR’S FILE
NO. 4609770, RECORDS OF THURSTON COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF THURSTON, STATE OF WASHINGTON.

SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS
OF RECORD.

DATED this ____ day of _____, 2023.

GRANTOR, CITY OF OLYMPIA

Steven J. Burney, City Manager

Approved as to legal form:

Mark Barber, City Attorney

EXHIBIT “E”
FORM OF RESTRICTIVE COVENANTS

After recording return to:

Legal Department
City of Olympia
P.O. Box 1967
Olympia, WA 98507-1967

Document Title:	Restrictive Covenants
Grantor:	South Puget Sound Habitat for Humanity, a Washington nonprofit corporation
Grantee:	City of Olympia, a Washington municipal corporation
Abbreviated Legal Description:	Section 30 Township 18 Range 1W Quarter S2 SW LL 174390 OL LT 3 Document 4609770
Assessor’s Tax Parcel Number:	11830330103

As additional consideration to the **CITY OF OLYMPIA** for the sale of its real property to **SOUTH PUGET SOUND HABITAT FOR HUMANITY**, Grantor and Grantee agree that the real property legally described as:

LOT 3 OF LOG CABIN LARGE LOT SUBDIVISION NO. LLS 17-4390 OL
AS RECORDED FEBRUARY 2, 2018, UNDER AUDITOR’S FILE NO.
4609770, RECORDS OF THURSTON COUNTY, WASHINGTON.

SITUATE IN THE COUNTY OF THURSTON, STATE OF WASHINGTON.

SUBJECT TO EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF
RECORD,

shall be held, transferred, sold, conveyed, leased, used and occupied in perpetuity subject to the following covenants and restrictions:

1. The above legally described real property shall be solely used to construct affordable low-income housing and facilities and for no other purposes except with the Grantee’s express written consent and approval. Persons qualifying for affordable low-income owner-occupied housing are persons with adjusted median income (AMI) in Thurston County, Washington of eighty percent (80%) AMI or less, whose monthly housing costs do not exceed thirty percent (30%) of the person’s or household’s monthly income as reported by the United States Department of Housing and Urban Development (HUD), except as otherwise may be agreed in writing between Grantor and Grantee.
2. The Grantor agrees that phases of development of low-income affordable housing to be constructed upon the real property shall include approximately 27 senior cottages, 48

townhomes, 48 multifamily units and a stand-alone commercial center. Exact configuration of housing units is subject to change prior to final permitting approval.

3. The owner-occupied residential homes and townhomes shall be restricted in perpetuity for sale to persons with adjusted median income (AMI) in Thurston County, Washington of eighty percent (80%) AMI or less, as reported by the United States Department of Housing and Urban Development (HUD), whose monthly housing costs do not exceed thirty percent (30%) of the person's or household's monthly income, except as otherwise agreed in writing between Grantor and Grantee.

It is the express intent of the Grantor and Grantee that the provisions of the Restrictive Covenants stated herein shall be deemed to run with the land in perpetuity unless otherwise stated, and shall pass to and be binding upon Grantor's successors in title, including any subsequent purchaser, grantee, owner, assignee, trustee, trustor, or lessee of any portion of the real property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner, assignee, trustee, trustor, or lessee of any portion of the real property and any other person or entity having any right, title or interest therein. The Grantor and Grantee agree that the restrictions of this covenant do not apply to owner-occupied housing on the real property when the owner-occupiers were qualified as low income at the time of their purchase of a housing unit, but who have increased their income over time. However, if such owner-occupants sell their housing unit, any buyer is required to qualify as low income described herein.

It is further agreed by Grantor and Grantee, that Grantee shall have the right to enforce the aforesaid Restrictive Covenants running with the land in the Superior Court for Thurston County, by either a request for equitable relief and specific performance or an action at law for damages, or by both such equitable relief and monetary damages, as permitted by the laws of the State of Washington. The prevailing party shall be entitled to recover its attorneys' fees and cost of litigation to enforce the covenants set forth herein.

GRANTOR, SOUTH PUGET SOUND HABITAT FOR HUMANITY,
a Washington nonprofit corporation

Carly Colgan, Chief Executive Officer

STATE OF WASHINGTON)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that **Carly Colgan**, Chief Executive Officer of South Puget Sound Habitat for Humanity, a Washington nonprofit corporation, appeared before me, and that said person acknowledged that she signed this instrument, and on oath stated that she is authorized to execute this instrument, and acknowledged it as her free and voluntary act for the uses and purposes mentioned in the instrument.

Signature

Print Name
NOTARY PUBLIC in and for the State of

Residing at _____
My appointment expires: _____

GRANTEE, CITY OF OLYMPIA,
a Washington municipal corporation

Accepted and approved:

Steven J. Burney, City Manager

Dated: _____

Approved as to form:

Mark Barber, City Attorney

EXHIBIT "F"

RESOLUTION NO. M-2289

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OLYMPIA, WASHINGTON, TO RESPOND TO THE CLIMATE EMERGENCY, DECLARING THE INTENT OF THE CITY TO ELECTRIFY CITY-OWNED FACILITIES AND OLYMPIA'S BUILT ENVIRONMENT

WHEREAS, climate change is an existential crisis posing one of the most serious threats to the existence of humanity and all species on the planet; a threat that intersects and compounds all other crises facing humanity and our earth; and

WHEREAS, the 11th United Nations Intergovernmental Panel on Climate Change ("IPCC") report from October 2018 states that we must cut greenhouse gas emissions in half by 2030 to limit devastating global warming and avoid a climate catastrophe; and

WHEREAS, in 2018, the City of Olympia adopted Resolution No. M-1976 adopting common targets to reduce communitywide greenhouse gas emissions 45 percent below 2015 levels by 2030, and then 85 percent below 2015 levels by 2050. In 2019 these goals were placed in the Comprehensive Plan via amendment; and

WHEREAS, in 2019, in collaboration with Olympia High School students, Olympia approved a Resolution Expressing a Commitment to Protect the Youth of this Community from the Risks of Climate Destruction (M-2045), which among other things committed the City to achieve net zero emissions by 2040; and

WHEREAS, in February 2021, the City passed a Resolution Declaring a Climate Emergency (M-2194). A declaration that challenges our regional partners and community members to "to help further the Thurston County Climate Mitigation Plan through partnership with local jurisdictions and other entities" and to "adopt a lens of climate change and climate equity" in planning, zoning, permitting, budgeting, expenditures, ordinances, and all other city efforts, policies, and practices to further climate action efforts and our accepted regional climate mitigation plan; and

WHEREAS, in February 2021, the City accepted the Thurston Climate Mitigation Plan (TCMP), committing the City to working with Thurston County, the cities of Lacey and Tumwater and the Thurston Regional Planning Council to substantially reduce regional greenhouse gas emissions; and

WHEREAS, a Greenhouse Gas Inventory Report for Calendar Years 2015 – 2019 found that Thurston County greenhouse gas emissions have increased 15% since 2015, and the built environment was responsible for 63% of all emissions in 2019; and

WHEREAS, in Washington State, homes and buildings are the single fastest growing source of carbon pollution, up 50 percent since 1990, and now account for 27 percent of Washington's carbon emissions; and

WHEREAS, natural gas consumption represents the second largest source of greenhouse gas emissions from the built environment in Thurston County and the Thurston Climate Mitigation Plan identifies reducing natural gas use as a key strategy to achieve the most substantial reductions in local greenhouse gas emissions; and

WHEREAS, methane leaks during the production, processing, transmission, and distribution of natural gas can be substantial, releasing a potent greenhouse gas with 84 times the warming potential of carbon dioxide; and

WHEREAS, the United States and other leading economies recently agreed to the Global Methane Pledge to reduce Methane emissions 30 percent by 2030; and

WHEREAS, in 2019, Washington State passed the Clean Energy Transformation Act (CETA), which sets milestones for electric utilities to transition toward a 100% clean electricity. Under CETA, utilities must eliminate coal-fired electricity from their mix by 2025, become greenhouse-gas neutral by 2030 (using offsets, if necessary), and provide 100 percent renewable energy by 2045; and

WHEREAS, Olympia must take additional measures to decarbonize, transitioning from fossil fuel powered space-heating, water-heating, and cooking equipment to all-electric buildings powered by affordable, renewable electricity; and

WHEREAS, electrification will improve indoor air quality and overall health, by eliminating natural gas combustion inside homes that produces harmful indoor air pollution; and

WHEREAS, there are well-documented risks to respiratory health from gas stove pollution, and infants and children are particularly vulnerable to respiratory illnesses associated with gas stove pollution; and

WHEREAS, lower-income households are more likely to suffer from health impacts from outdoor and indoor air pollution, which are exacerbated when exposed to pollution from gas stoves; and

WHEREAS, electrification is widely recognized as a powerful strategy to address both climate change and poor air quality in the frontline communities most vulnerable to climate impacts; and

WHEREAS, every new building relying on fossil fuels for heating, cooling, and cooking will have a negative impact on the climate for decades to come and require additional investments to be retrofitted to electric systems as the climate emergency worsens; and

WHEREAS, in June of 2021, the Olympia City Council supported a referral to require the electrification of all new City-owned buildings and major renovations of existing City buildings; and

WHEREAS, in June of 2021, the Olympia City Council supported a referral directing staff to develop a scope, schedule, and budget to conduct a regional cost assessment of requiring non-fossil fuel sourced heating and power in new commercial and residential development in the City; and

WHEREAS, the City has the opportunity to lead by example to make decisive, transformative, and sustainable changes in its municipal energy consumption, and can significantly lower the City's greenhouse gas emissions and overall carbon impact; and

WHEREAS, citywide building electrification is necessary to achieve Olympia's greenhouse gas reduction targets, and such actions will also improve public health and increase the quality of life throughout the City;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OLYMPIA, that the City of Olympia recognizes the global and local benefits of accelerating the transition to all-electric buildings throughout the City; and be it

FURTHER RESOLVED as follows:

Section 1. The City Manager is directed to electrify all newly constructed City-owned buildings and major renovations of existing City buildings, except where exemptions are necessary due to physical space limitations, availability of technology, or cost constraints. Additional upfront costs of five percent (5%) or less shall not be considered a cost constraint. Exemptions must be approved by the City Council and exempt buildings should be built in a manner to support the easy transition to electric systems at any time during the life of the building. This policy will become effective January 12, 2022.

Section 2. The City Manager is directed to require the electrification of all new projects and major renovations of existing buildings receiving City funding of \$50,000 or more, a donation of City property with an appraised value of \$50,000 or more, or a sale of City-owned property where the difference between the appraised value and sale price is \$50,000 or more, except where exemptions are necessary due to physical space limitations, availability of technology, or cost constraints. Council may consider the total cost of construction and operating costs in determining the issue of cost constraints. Exemptions must be approved by the City Council and exempt buildings should be built in a manner to support the easy transition to electric systems at any time during the life of the building. This policy will become effective following a work session to discuss citywide electrification on or before April 1, 2022.

Section 3. The City Manager is directed to inventory City-owned facilities that use fossil fuels and evaluate the feasibility of retrofitting existing buildings to become all-electric by 2030. The inventory and evaluation will make use of existing reports and data to prepare preliminary feasibility recommendations by January 1, 2024.

Section 4. The City of Olympia will encourage the Washington State Legislature and State Building Code Council, and other local entities, such as Thurston County, neighboring cities, school districts, and major institutions, to join in this step to address regional greenhouse emissions from our built environment, by adopting similar building electrification policies to invest in clean energy assets.

Section 5. The City Manager is directed to schedule a City Council work session no later than April 1, 2022, to discuss policy pathways and potential challenges to citywide electrification of all new buildings

PASSED BY THE OLYMPIA CITY COUNCIL this 18th day of January 2022.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY