

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 ("Buyer"), and Manke Timber Company, Inc. and Manke Lumber Company, Inc., both Washington corporations ("Sellers"), jointly referred to as "the Parties." This Agreement shall not be effective until the "Effective Date" (as defined in Paragraph 17.16 below).

RECITALS

Sellers are the owners of certain real property located in Thurston County, Washington, consisting of approximately 2.51 acres, more or less, and more particularly described on **Exhibit "A"** (legal description) and shown on **Exhibit "B"** (general vicinity sketch) attached hereto and by this reference incorporated herein.

Buyer has determined that the Property is suitable for public park purposes for the citizens and residents of the City of Olympia.

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 Sellers will sell the Property to Buyer.

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, Sellers agree to sell and convey to Buyer, and Buyer agrees to purchase from Sellers, the following:

1.1 Land. The approximately 2.51 acres, more or less, 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 Sellers, including without limitation any and all leases, subleases, easements, rights-of-way, water and mineral rights, and any other appurtenances, also including any buildings, structures or fixtures located upon and 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 three (3) business days of the Effective Date of this Agreement, 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"). Darla Wilkins or another designee of 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 Sellers for the Property (the "Purchase Price") is TWO HUNDRED AND TEN THOUSAND DOLLARS and NO CENTS (\$210,000.00) U.S.

3.1 Additional Consideration. In addition to the cash set forth in Paragraph 3 above, Buyer agrees to grant Sellers a nonexclusive access and utility easement to, over, across under and upon the Property described in Paragraph 1 above. Sellers' nonexclusive access and utility easement shall be for any lawful purpose upon Sellers' adjacent properties. The nonexclusive easement to Sellers shall be in the form set forth in **Exhibit "E"** attached hereto. The Escrow Company shall record the nonexclusive easement after recording of Sellers' statutory warranty deed conveying the Property to Buyer.

4. Payment of Purchase Price. On the Closing Date, Buyer shall deposit with Escrow Company the sum of TWO HUNDRED AND TEN THOUSAND DOLLARS and NO CENTS (\$210,000.00) for the Purchase Price of the Property upon Closing.

5. Closing Date. The Closing (the "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 on a date no later than thirty (30) business days after the waiver or expiration of the Feasibility Contingency in Paragraphs 7.4 and 7.5 of this Agreement (the "Closing Date"), unless an earlier or later time is agreed upon between the Parties. Closing shall occur when the Deed (as hereinafter defined) to Buyer is executed and recorded, and the Purchase Price as described in Paragraph 4 is delivered to the Escrow Company for delivery to Sellers.

6. Title and Survey Matters.

6.1 Title Binder. Buyer shall order a preliminary commitment for an ALTA owner's standard 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 fourteen (14) 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 Sellers 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 Sellers shall have ten (10) business days after receiving Buyer's objections to notify Buyer if Sellers will remove any of the exceptions objected to prior to the Closing Date or if Sellers elect not to remove such objected to exceptions. If Sellers 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 Sellers 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. Sellers shall not be required to incur any expense in order to render their title marketable or to remove any matter disapproved by Buyer; provided that, Sellers shall not refuse to remove any disapproved item that involves only payment of a monetary obligation of Sellers' secured by a lien or other encumbrance on the Property.

6.3 Title Policy. At Closing, Sellers and Buyer shall cause Title Company to issue a standard ALTA owner's policy ("Title Policy") to Buyer, at Sellers' 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; provided that Buyer shall be solely responsible for all additional costs and requirements to obtain such endorsements. 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"), Sellers shall deliver to Buyer copies of the documents and reports listed on attached **Exhibit "C"** to this Agreement and in Sellers' possession. Sellers shall certify to Buyer, as of the Document Delivery Date, as to any documents listed on **Exhibit "C"** not in Sellers' possession.

7.2 Inspection of the Property. Buyer shall have the right and permission from the date Sellers sign 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 Sellers from and against any mechanic's or other liens or claims that may be filed or asserted against the Property or Sellers as a direct result of any actions taken by Buyer in connection with the Property, including but not limited to permitting Sellers 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

Sellers with a copy of all soil or environmental test results for the property upon Sellers' request. Buyer shall reasonably restore the Property to its condition immediately prior to any invasive testing. The effect of the representations and warranties made by Sellers 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 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 twenty-one (21) business days from the last date this Agreement was executed by a Party to sign same.

7.5 Contingency/Feasibility Period. As used herein, the term "Contingency or Feasibility Period" shall be twenty-one (21) business days from the last date this Agreement was executed by a Party to sign same.

7.6 Buyer's Right to Terminate. If Buyer's conditions set forth in Paragraph 7.4 above are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement by sending written notice to Sellers 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 Sellers, this Agreement shall terminate and neither Buyer nor Sellers 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 shall be terminated in writing, except for any Assumed Contracts or Leases. Sellers shall provide Buyer, prior to Closing, with written termination agreements with respect to all Contracts or Leases, in a form acceptable to Buyer;

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

(iii) Sellers shall have performed all obligations to be performed by them 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

(v) At Closing, the physical condition of any buildings or structures, forest and ground cover shall be substantially the same as on the date hereof, ordinary wear and tear excepted.

If the conditions set forth in Paragraph 7 are not satisfied as of the Closing Date and Buyer does not waive the same, Buyer may terminate this Agreement by written notice given to Sellers, and thereafter Buyer shall have no further liability to Sellers under this Agreement.

7.8 As-is Condition. Buyer acknowledges the Property is sold in its “As-is where is” condition. Buyer hereby waives the right to any seller disclosure statement, which would otherwise be required under RCW Chapter 64.06. Further, in the event a seller’s disclosure statement or any portion thereof is required under RCW Chapter 64.06 pursuant to RCW 64.06.040(3), Buyer hereby waives any right of rescission of this Agreement that Buyer might otherwise have under RCW Chapter 64.06.

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

8.1 Title. Sellers are the sole owners of the Property, except for reservations of record. At Closing, Sellers shall convey the entire fee simple estate and right, title and interest in and to the Property by statutory warranty deed to Buyer, free and clear of unapproved encumbrances of record.

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 Sellers or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Sellers.

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. Sellers are not a foreign person and are 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. Sellers acknowledge and represent there are no subterranean storage or underground storage tanks on the Property.

8.8 Leases and Other Agreements. Sellers represent 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 Sellers arising prior to the Closing Date.

8.10 Defaults. Sellers are 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. Sellers have 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. Sellers 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 Sellers and Buyer and constitute their legal, valid and binding obligation enforceable against Sellers 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 Sellers. Sellers covenant and agree as follows:

9.1 Perform Obligations. From the date of this Agreement to the Closing Date, Sellers 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, Sellers will not allow any lien to attach to the Property, nor will Sellers 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, Sellers will notify Buyer of each event of which Sellers become aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

10. Closing.

10.1 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.

10.2 Documents to be Delivered by Sellers. For and in consideration of, and as a condition precedent to the payment to Sellers of the Purchase Price, Sellers 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 Sellers 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 Sellers, if any.

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

(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 form set forth in **Exhibit "D"** attached hereto.

10.3 Payment of Costs. At Closing, Sellers shall pay all charges for title insurance for a standard ALTA owner's title policy insuring Buyer's title, one-half of the escrow fee, the recording fees, the technology fee, and real property excise taxes. Buyer shall pay one-half of the escrow fee.

10.4 Taxes. Buyer is exempt from payment of real property excise taxes for the Property pursuant to WAC 458-61A-205(3).

10.5 Monetary Liens. Sellers 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 Sellers are exempt by statute or administrative rule or regulation.

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

10.7 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.

11. Environmental.

11.1 Hazardous Substances. Notwithstanding anything to the contrary in this Agreement or otherwise, the Parties agree that Sellers shall 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 out of the past release or threatened release of Hazardous Substances on, under, above, or about the Property before Closing, except for 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, or contractor of Buyer.

11.2 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.

12. Indemnification. Sellers 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 Sellers set forth in this Agreement, (b) the failure of Sellers to perform any obligation required by this Agreement to be performed by Sellers, (c) the

ownership, maintenance, and/or operation of the Property by Sellers 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 Sellers, their representatives, employees, contractors or suppliers that occurred before Closing; provided, however, that nothing in this Paragraph 12 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 caused or contributed to by Buyer, or any employee, agent, or contractor of Buyer.

13. 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 Sellers, 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 Sellers 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 Sellers shall, prior to the Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, Sellers' 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. Sellers shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

14. 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 Sellers, 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 Sellers, 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, the Purchase Price shall be reduced by the amount of loss or damage occasioned by such casualty not covered by insurance, and Sellers 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 Sellers 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. Sellers shall forthwith notify Buyer in writing of any such casualty respecting the Property.

15. 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 forty-eight (48) 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 Buyer: Steven J. Burney, City Manager
City of Olympia
601 4th Ave E
Olympia, WA 98501
Email: jburney@ci.olympia.wa.us

With a copy to: Mark Barber, City Attorney
City of Olympia
601 4th Ave E
Olympia, WA 98501
Email: mbarber@ci.olympia.wa.us

To Sellers: Joel A. Manke
Manke Timber Company, Inc.
Manke Lumber Company, Inc.
1717 Marine View Drive
Tacoma WA 98422
Email: joel@mankelumber.com

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.

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

17. Miscellaneous.

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

17.2 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.

17.3 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.

17.4 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 Sellers' approval, which shall not be unreasonably withheld, conditioned or denied. Buyer must notify and, if required, request approval by Sellers of any such assignment prior to the Closing. Any such assignee shall for all purposes be regarded as Buyer under this Agreement.

17.5 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.

17.6 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.

17.7 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 Sellers 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.

17.8 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.

17.9 Survival. The 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.

17.10 Finders' or Brokers' Fees. Sellers represent and warrant that if they have 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, that Sellers shall pay such fee in connection with the transactions contemplated by this Agreement. Sellers agree 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 due to a breach by Sellers of the representation and warranty set forth above.

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

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

17.13 Force Majeure. Performance by Sellers 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, epidemic, 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).

17.14 Recitals. The Recitals set forth above are incorporated by this reference into this Agreement and are made a part hereof.

17.15 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 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.

17.16 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 Sellers' signatures on this Agreement.

18. Expiration. This offer will expire if not executed by Sellers and Buyer on or before 5:00 p.m. on June 12, 2020.

[Signatures appear on the following page]

SELLERS:

MANKE TIMBER COMPANY, INC., a
Washington corporation


Joel A. Manke, Authorized Officer

Date: 05/27/2020

MANKE LUMBER COMPANY, INC., a
Washington corporation


Joel A. Manke, Authorized Officer

Date: 05/27/2020

BUYER:

CITY OF OLYMPIA, a Washington
municipal corporation

Steven J. Burney, City Manager

Date: _____

APPROVED AS TO FORM:

Mark Barber
Mark Barber, City Attorney

Date: 05/27/2020

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel B of Boundary Line Adjustment No. BLA-1363, as recorded April 28, 1993 under Auditor's File No. 9304280020.

Situated in Thurston County, Washington.

EXHIBIT "B"

GENERAL VICINITY SKETCH

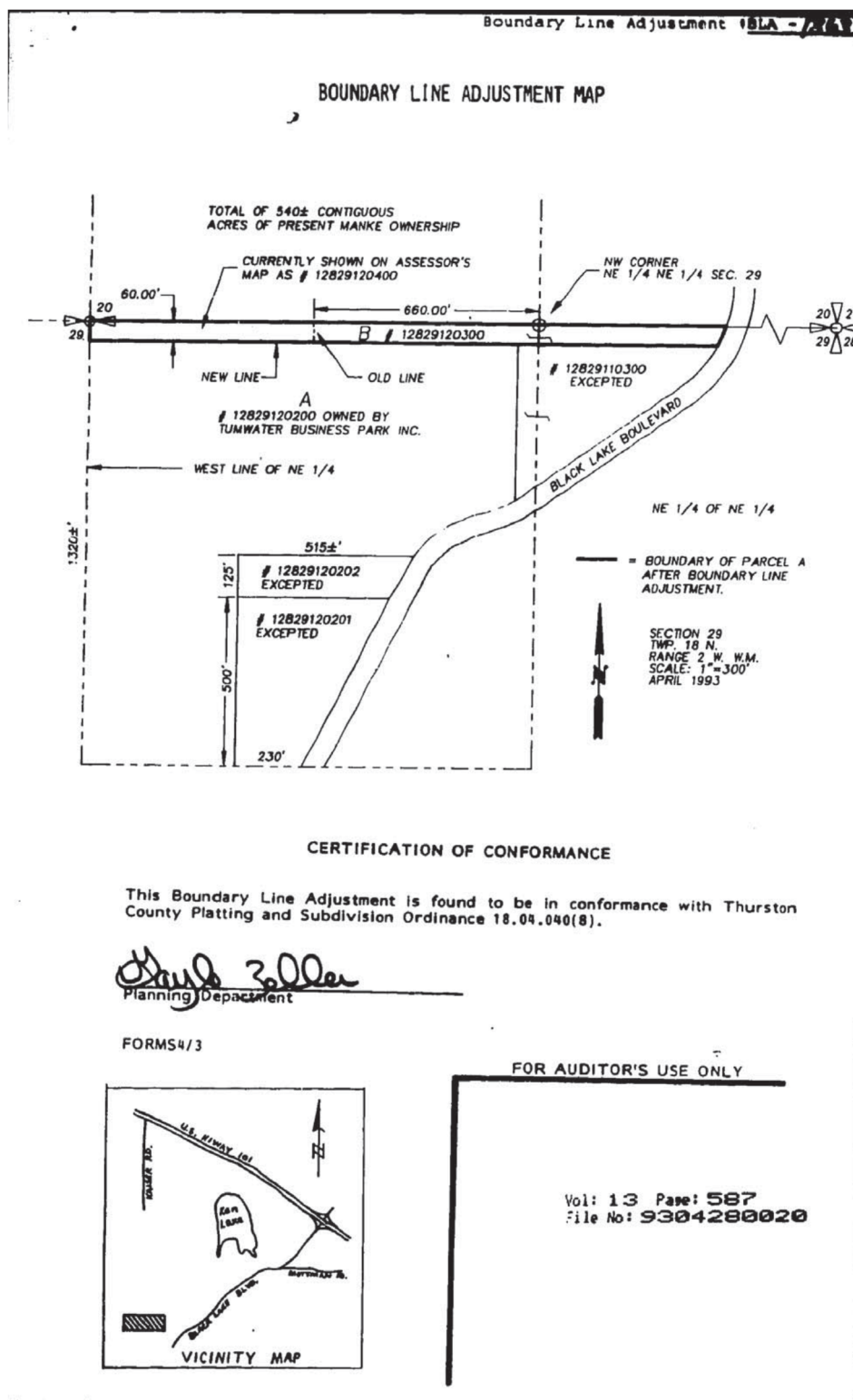


EXHIBIT “C”
DOCUMENTS AND REPORTS

1. Copies of all of leases, subleases or other occupancy agreements relating to the Property, including but not limited to any agricultural leases or agreements 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 or structure located thereon.
3. Any other information about the Property reasonably requested by Buyer if in the possession or control of Sellers.
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 MAIL TO:

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

Document Title:	Statutory Warranty Deed
Grantors:	Manke Timber Company, Inc., a Washington corporation, and Manke Lumber Company, Inc., a Washington corporation
Grantee:	City of Olympia, a Washington municipal corporation
Abbreviated Legal Description:	Parcel B of Boundary Line Adjustment No. BLA-1363 under Auditor's File No. 9304280020
Assessor's Tax Parcel Number:	12829120300; 12829120400

The Grantors, **MANKE TIMBER COMPANY, INC.**, a Washington corporation and **MANKE LUMBER COMPANY, INC.**, a Washington corporation, for and in consideration of the sum of TEN and NO/100---(\$10.00) Dollars, and other valuable considerations, in hand paid, hereby convey and warrant to the Grantee, **CITY OF OLYMPIA**, a Washington municipal corporation, the following 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:

Parcel B of Boundary Line Adjustment No. BLA-1363, as recorded April 28, 1993 under Auditor's File No. 9304280020.

Situated in Thurston County, Washington.

Subject to the matters set forth on Exhibit A attached hereto. [Permitted Exceptions to be attached]

GRANTORS:

MANKE TIMBER COMPANY, INC., a Washington corporation

Print Name: _____

Title: _____

Date: _____

EXHIBIT A
Permitted Exceptions

EXHIBIT “E”
FORM OF NONEXCLUSIVE ACCESS AND UTILITY EASEMENT

AFTER RECORDING MAIL TO:

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

Document Title:	Nonexclusive Access and Utility Easement
Grantor:	City of Olympia, a Washington municipal corporation
Grantees:	Manke Timber Company, Inc., a Washington corporation, and Manke Lumber Company, Inc., a Washington corporation
Abbreviated Legal Description:	Parcel B of Boundary Line Adjustment No. BLA-1363 under Auditor’s File No. 9304280020
Assessor’s Tax Parcel Number:	12829120300; 12829120400

NONEXCLUSIVE ACCESS AND UTILITY EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor, CITY OF OLYMPIA, a Washington municipal corporation, does grant and convey to Grantees, MANKE TIMBER COMPANY, INC., a Washington corporation, and MANKE LUMBER COMPANY, INC., a Washington corporation, a nonexclusive easement for access and utility purposes to, over, upon, under and across the following described real property situated in the City of Olympia, County of Thurston, State of Washington, and legally described as follows:

See Exhibit “A” attached hereto and by reference made a part hereof.

Said nonexclusive easement shall be for Grantees’ ingress and egress to, over, upon, under and across said real property described in Exhibit “A” at all times, for any lawful purpose of Grantees. Grantees’ nonexclusive easement shall be for access and utility purposes and exercised in a manner so as not to interfere with Grantor’s use of the easement area for road access purposes for ingress and egress and utilities to Grantor’s properties.

Grantees agree that they shall repair any damage to the roadway and easement area described in Exhibit “A” attached hereto, at their own expense, and to the extent reasonably practicable, restore the surface of the land to the same conditions that existed prior to grant of this

CITY OF OLYMPIA, a Washington municipal corporation

Date _____

By: _____
Mark Barber, City Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

On this _____ day of _____, 2020, before me personally appeared STEVEN J. BURNEY, City Manager, City of Olympia, to me known to be the individual described in and who executed the within instrument, and acknowledged that he signed and sealed the same as the free and voluntary act and deed of the City of Olympia, for the purposes and uses therein mentioned, and on oath stated that he was duly authorized to execute said document.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

Signature _____
 Print Name: _____
 Notary Public in and for the State of Washington,
 Residing at _____
 My commission expires _____

EXHIBIT "A"
LEGAL DESCRIPTION

Parcel B of Boundary Line Adjustment No. BLA-1363, as recorded April 28, 1993 under Auditor's File No. 9304280020.

Situated in Thurston County, Washington.