



This meeting is being recorded for public review on the City of Millersburg website.

Rules of Conduct for Public Meetings

No person shall be disorderly, abusive, or disruptive of the orderly conduct of the meeting. Microphones will be muted and webcams will be turned off for remote participants unless called upon to speak or during public comment period.

Persons shall not comment or testify without first receiving recognition from the presiding officer and stating their full name and city of residence.

During public hearings no person shall present irrelevant, immaterial, or repetitious testimony or evidence.

There shall be no audience demonstrations such as applause, cheering, display of signs, or other conduct disruptive of the meeting. If online participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off. If disruption continues, the participant(s) will be removed from the meeting.

SPECIAL CITY COUNCIL MEETING AND PUBLIC HEARING

In-Person Meeting with Remote Access Available

Millersburg City Hall
4222 NE Old Salem Road, Millersburg OR 97321
March 26, 2024 @ 6 p.m.

Agenda

Remote access for the meeting is available. Instructions for joining the meeting can be found at <https://www.millersburgoregon.gov/citycouncil/page/special-city-council-public-hearing-1>. If you do not have access to a phone or computer, or need additional support, please contact City Hall prior to 5:00 p.m. on Monday, March 25, 2024.

Meeting link to join via computer:

<https://aspenuc.accessionmeeting.com/j/11597014359>

Phone number to join meeting: 503-212-9900

Meeting ID: 115 9701 4359

- A. CALL TO ORDER
- B. ROLL CALL
- C. PLEDGE OF ALLEGIANCE
- D. CHANGES AND ADDITIONS TO THE AGENDA
- E. PUBLIC HEARING
 - 1) Proposed Sale of City-Owned Property
Action: _____
- F. CLOSING COUNCIL COMMENT
- G. ADJOURNMENT

Upcoming Meetings & Events:

For a schedule of meetings and events, visit the City's website calendar at <https://www.cityofmillersburg.org/meetings>

The meeting is accessible to the disabled. If you have a disability that requires accommodation to attend or participate, please notify the Millersburg City Hall in advance by calling 458-233-6300.

TO: Millersburg City Council
FROM: Kevin Kreitman, City Manager
DATE: March 21, 2024, for the March 26, 2024, Special City Council Meeting
SUBJECT: Purchase and Sale Agreement (with Option) between City and Timberlab, Inc. for Westside Property

Action Requested: Approval of proposed purchase and sale agreement (PSA), including option rights, between City and Timberlab, Inc. for approximately +/- 60 acres of City-owned property.

Discussion: On March 20, 2024, the city entered into a Letter of Intent (LOI) for the partial sale and partial granting of an option for approximately +/-60 acres of land to Timberlab, Inc. for the development of an industrial project. With direction from Council, staff, legal counsel, and representatives of Timberlab, Inc. have negotiated the attached purchase and sale agreement. The proposed sale of property represents approximately +/-34 acres from the following identified parcel/ID number 10S03W29-00-00203, as shown in the attached exhibit and identified as "Area A" located south of the southernmost stream. Additionally, the agreement provides an option to purchase an additional 27 acres, which include 18.5 acres of the remaining parcel/ID number 10S03W29-00-00203 identified as area B; and 8.5 acres of Parcel/ID #: 10S03W29-00-00207 identified as area C.

Upon notification by Wilbur-Ellis on January 24, 2024, of termination of their lease, we contacted representatives for Timberlab to inform them of the availability of our western parcel of land. After review of the site, Timberlab has requested to enter into a Purchase and Sale Agreement (PSA) (including option rights) for the acreage identified above. The project includes office, manufacturing, and facilities representing approximately 250,000 square feet with a value of approximately \$250 million.

The sales price for the property is detailed below. The advertised asking price based on previous appraisals of adjacent property was \$3.00 per square foot, less \$1,000,000.00, which is the estimated loss in value attributed to the lack of developed access and facilities. The estimated loss in value is based on the City's actual construction costs for road and other improvements in similar projects for the anticipated access road improvements (including two stream crossings). The negotiated price is further based on Council action and approval of a purchase incentive based on the value of proposed investment, representing approximately \$250 million in development value. This represents an almost 34% increase in the current assessed value of the City, with potential of new city tax revenue of approximately \$875,000 annually (for an annual return on investment of approximately \$27,778 per acre for the 34 acre parcel), the proposed project is also a large power user which would result in additional electric franchise fees.



- (a) The negotiated sale price of the property is three (\$3.00) dollars per each square foot (prorated for fractional square feet) of the Land (excluding area to be dedicated for public right of way) and land determined to be non-developable; and,
- (b) Which has been determined to consist of 31.5 acres of developable land.

The sales price for the option land will be the fair market value of the land to be determined nor more than 60 days prior to the delivery of the notice to exercise the option rights.

The sale agreement for the property will correspond with and require a land use goal exception with Linn County for a 60-foot-wide access from Conser Road to the City property together with resolution of all title objections related to the access road.

Budget Impact:

The final plat will identify the total acreage to be purchased. Currently the sales price is estimated at approximately \$3.1 million for the +/-34 acres. The City will also benefit from ongoing tax and franchise fee revenues.

Recommendation:

Staff recommends Council approve the purchase and sale agreement (with option rights) for approximately 60 acres of City of Millersburg, Oregon, real property, known as tax lot numbers 10S 03W 29 00203 and 10S 03W 29 00207 representing approximately 60 acres on Linn County assessor maps, to Timberlab, Inc., a Delaware limited liability company; and authorize the City Manager to sign all documents on behalf of the City of Millersburg necessary to convey said property via sale to Timberlab, Inc., a Delaware limited liability company and to conduct business and sign documents necessary to implement and fulfill terms of this sale in the future.

Attachment(s):

Public Notice
Order Authorizing Sale
Purchase and Sale Agreement

Customer Ad Proof

138-60001411

CITY OF MILLERSBURG

Order Nbr 162855

Publication	AlbanyCorvallis Paper		
Contact	CITY OF MILLERSBURG	PO Number	
Address 1	4222 NE OLD SALEM RD	Rate	Legal Open
Address 2		Order Price	179.84
City St Zip	ALBANY OR 97321	Amount Paid	0.00
Phone	4582336300	Amount Due	179.84
Fax			
Section	Public Notices	Start/End Dates	03/19/2024 - 03/19/2024
SubSection		Insertions	1
Category	990 Public Notice	Size	37
Ad Key	162855-1	Salesperson(s)	09 LEGAL SALESPERSON
Keywords	Sale to Timberlab 4869-9448-1834 1	Taken By	Nicole Muscari
Notes			

Ad Proof

Notice of proposed sale of Millersburg, Oregon, city-owned real property and public hearing concerning such sale

Pursuant to ORS 221.725, notice is hereby given regarding a public hearing occurring Tuesday, March 26, 2024, 6:00 PM, at the Millersburg City Hall, Millersburg, Oregon. The purpose of the public hearing concerns the sale to Timberlab, Inc., a Delaware limited liability company, of City of Millersburg owned real property located in Millersburg, Oregon, consisting of +/- 34 acres of land identified as Area A and giving an option to purchase approximately +/- 27 acres of land identified as Area B (approximately +/- 18.5 acres) and Area C (approximately +/- 8.5 acres), all as identified on the attached Exhibit A, and located on portions of parcels of land known as Parcel/ID #: 1-0S03W29-00-00203 and 10S03W29-00-00207.

This property is in General Industrial (GI) zoning.

The Millersburg City Council considers this sale convenient, necessary, and beneficial to the local and regional residents in that new jobs will be created and additional revenue generated to the City from real property taxes, increased property valuations, and additional utility franchise fees to the City. City staff indicates the sales price of this land to Timberlab, Inc. is well justified considering the benefits to the City, its residents, and the local and regional economy.

3/19 162855

AN ORDER AUTHORIZING THE SALE OF CITY OF MILLERSBURG, OREGON, OWNED REAL PROPERTY, KNOWN AS TAX LOT 203 OF LINN COUNTY ASSESSOR MAP 10 SOUTH RANGE 3 WEST, SECTION 29 AND TAX LOT 207 OF LINN COUNTY ASSESSOR MAP 10 SOUTH RANGE 3 WEST, SECTION 29, REPRESENTING APPROXIMATELY 60 ACRES (SUCH SALE MAY INCLUDE ALL OR A PORTION OF SUCH PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE GRANTING OF AN OPTION TO PURCHASE) TO TIMBERLAB, INC., A CORPORATION OF DELAWARE; AND FURTHER AUTHORIZING THE CITY MANAGER, OR THEIR DESIGNEE, TO SIGN ALL DOCUMENTS ON BEHALF OF THE CITY OF MILLERSBURG NECESSARY TO CONVEY SAID PROPERTY TO TIMBERLAB, INC., A DELAWARE LIMITED LIABILITY COMPANY, AND TO CONDUCT BUSINESS AND SIGN DOCUMENTS NECESSARY TO IMPLEMENT AND FULFILL TERMS OF THIS SALE IN THE FUTURE

WHEREAS, this matter coming before the Millersburg City Council on March 26, 2024, for a public hearing to determine whether the City should sell the following City of Millersburg owned real-property known as portions of Tax Lots 203 and 207 of Linn County Assessor Map 10 South Range 3 West, Section 29 and, located south of Conser Road and west of the Burlington Northern railway in Millersburg, Oregon, to Timberlab Inc., a Delaware Limited Liability Company; and,

WHEREAS, notice of the public hearing was published in the Albany Democrat-Herald on Tuesday, March 19, 2024; and,

WHEREAS, the City Council had a quorum as required by the City of Millersburg Charter; and,

WHEREAS, testimony was presented to the Council by any person or party that desired to present, and questions were asked by Councilors of presenters; and,

WHEREAS, after the closure of public testimony the Councilors asked questions of staff and deliberated; and,

WHEREAS, the Council and public had Exhibit #1, also known as the Purchase and Sale Agreement, available to them for review, prior to the hearing;

THE COUNCIL HAVING VOTED, MAKES THE FOLLOWING FINDINGS:

- 1) A public hearing was held before the Millersburg City Council on March 26, 2024, to determine whether to sell all or portions of City of Millersburg owned real property known as Tax Lots 203 and 207 of Linn County Assessor Map 10 South Range 3 West, Section 29 located south of Conser Road and west of the Burlington Northern railway in Millersburg, Oregon, to Timberlab Inc, a Delaware Limited Liability Company.
- 2) Testimony was presented by any person or party that desired to present, and questions were asked by Councilors of presenters.

- 3) After the closure of public testimony, the Councilors asked questions of staff and deliberated.
- 4) The Council and public had Exhibit #1, also known as the Purchase and Sale Agreement, available to them for review prior to the hearing.
- 5) Said property is not needed for public use.
- 6) The sale of said property to Timberlab Inc. will generate revenue to the City of Millersburg and may provide jobs to local residents.
- 7) The sale of said property to Timberlab Inc. is in the best interest of the City of Millersburg.
- 8) The proposed sale is supported by evidence that the proposed consideration is fair market value of the real property to be sold.
- 9) The Millersburg City Manager is tasked with day to day operations of running the City of Millersburg.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- 1) The above FINDINGS are hereby adopted.
- 2) The Millersburg City Council will sell all or portions of the following City of Millersburg, Oregon, owned real property known as portions of Tax Lots 203 and 207 of Linn County Assessor Map 10 South Range 3 West, Section 29 located south of Conser Road and west of the Burlington Northern railway in Millersburg, Oregon, to Timberlab Inc., a Delaware Limited Liability Company, pursuant to the terms substantially similar to those in Exhibit 1 (the Purchase and Sale Agreement), which may be amended or restated.
- 3) The Millersburg City Manager, or their designee, is authorized to sign all documents on behalf of the City of Millersburg necessary to convey said property via sale to Timberlab Inc., a Delaware Limited Liability Company, including, but not limited to, a development agreement generally described in the Purchase and Sale Agreement, and to conduct business and sign documents necessary to implement and fulfill terms of this sale in the future.

IT IS HEREBY ORDERED by the Council this 26th day of March, 2024.

Mark Raum
Mayor Pro Tem

ATTEST:

Sheena Dickerman
City Recorder

4854-8656-7344, v. 3

DRAFT

PURCHASE AND SALE AGREEMENT AND OPTION TO PURCHASE

THIS PURCHASE AND SALE AGREEMENT AND OPTION TO PURCHASE (the “**Agreement**”), made and entered into effective as of the last date signed below (the later of those dates of execution being herein referred to as the “**Effective Date**”), is by and between **City of Millersburg**, an Oregon municipal corporation, hereinafter referred to as “**Seller**,” and **Timberlab, Inc.**, a Delaware corporation, hereinafter referred to as “**Purchaser**.”

RECITALS:

- A.** Seller owns certain real property located on portions of parcels of real property known as Parcel/ID #: 10S03W29-00-00203 and 10S03W29-00-00207, Linn County, Oregon, which is depicted in attached Exhibit A-1 and is legally described in attached Exhibit A-2, incorporated herein by this reference (collectively, the “**Property**”) together with all easements, rights, and interests appurtenant thereto.
- B.** Purchaser and Seller’s preliminary negotiations refer to the Property as consisting of three separate areas:
- “**Area A**,” which consists of approximately 34 acres of land as depicted in the attached Exhibit A-1 and located on the southern portion of the parcel of land commonly known as Parcel/ID #: 10S03W29-00-00203 located south of the southernmost stream;
- “**Area B**,” which consists of approximately 18.5 acres of land as depicted in the attached Exhibit A-1 and located on the northern portion of the parcel of land commonly known as Parcel/ID #: 10S03W29-00-00203 located north of the southernmost stream; and
- “**Area C**,” which consists of approximately 8.5 acres of land as depicted in the attached Exhibit A-1 and located on a portion of the parcel of land commonly known as Parcel/ID #: 10S03W29-00-00207.
- C.** The Parties refer to Area A, together with all easements, rights, and interests appurtenant thereto, as the “**Purchase Property**.”
- D.** The Parties refer to Area B and Area C collectively, together with all easements, rights, and interests appurtenant thereto, as the “**Option Property**.”
- E.** The Purchase Price, as defined below, is based on the Parties estimated determination of the developable property within Area A, which is valued at \$3.00 per square foot, less \$1,000,000.00, which is the estimated loss in value attributed to the lack of developed access and facilities.

- F. Purchaser desires to acquire and Seller desires to sell the various real property interests in the Property more particularly described below under the terms and conditions expressly stated in this Agreement.

AGREEMENT:

1. Purchase and Sale of the Purchase Property

Seller agrees to sell the Purchase Property to Purchaser, and Purchaser agrees to purchase the Purchase Property from Seller, on the terms and conditions set forth in this Agreement.

2. Option to Purchase the Option Property

2.1 Grant of Option

Seller hereby grants to Purchaser the exclusive right and option (the "**Option**") to purchase all or a portion of the Option Property on the terms and conditions set forth in this Agreement and as more particularly described below in this Section 2.

2.2 Purchase Price of Option Property

The purchase price for the Option Property shall be the fair market value of the Option Property to be determined not more than sixty (60) days prior to delivery of the Option Notice provided under Section 2.4 below. For purposes of this Section 2, the fair market value of the Option Property shall be determined by mutual agreement of the Seller and Purchaser. If they are unable to agree, an M.A.I. accredited appraiser experienced in and familiar with other local area properties similar to the Option Property (a "**Qualified Appraiser**") mutually agreeable to the Owner and Optionee shall determine the fair market value of the Option Property. If they are unable to agree on a Qualified Appraiser, the Seller and Purchaser shall each select a Qualified Appraiser, those appraisers shall select a third Qualified Appraiser, and the fair market value shall equal the value determined by the appraisal which is neither the high nor the low appraisal. The Parties shall each pay one-half the costs of a single appraiser. If three appraisers are retained, the Seller shall pay the costs of the appraiser it selects, the Purchaser shall pay the costs of the appraiser it selects, and the Parties shall each pay one-half the costs of the third appraiser.

2.3 Term; Effect of Termination

The Option shall commence on the date hereof and shall expire if not exercised by two (2) years following the Effective Date (the "**Option Period**"). If this Option is not timely exercised or extended on or before the expiration of the Option Period, it shall automatically terminate without any notice to Purchaser, or any other person, and all rights of Purchaser relating to the Option shall immediately cease. If the last day of the Option Period falls on a Saturday, a Sunday, or a holiday recognized by the federal government or the state of Oregon, all of Purchaser's rights during such time period shall extend through the next business day.

2.4 Manner of Exercise

The Option shall be exercised, if at all, by Purchaser giving written notice to Seller and the Escrow Agent during the term hereof in the manner described below (herein the "**Option Notice**"). The purchase and sale of the Option Property shall be consistent with the terms and

conditions for the purchase of the Purchase Property; provided, however, Purchaser shall perform its due diligence with respect to the entire Property. Purchaser's contingency period under the Option Agreement shall be limited to confirming no changes during the Option Period with respect to the Option Property.

This Option may be exercised with respect to the Option Property, and nothing contained herein shall be construed as permitting Purchaser to purchase less than all of either Area B or Area C individually or all of the Option Property, collectively. Upon exercise of this Option, Purchaser shall be obligated to purchase all of either Area B or Area C individually or all of the Option Property from Owner, and Owner shall be obligated to purchase such property, for the price and in the manner set forth herein.

On or before the end of the Contingency Period, as defined below, the Parties shall agree upon a form of Option Agreement in a manner substantially similar to this Agreement and as proscribed in this Section 2.

2.5 Quitclaim

If Purchaser does not exercise the Option, then upon request by Seller, Purchaser shall execute and deliver to Seller a quitclaim deed, conveying any interest of Purchaser in the Option Property.

2.6 Memorandum

Seller and Purchaser agree to execute and record a Memorandum of Option with the recording fees paid by Purchaser.

3. Purchase Price

The total purchase price for the Purchase Property is \$3,116,420.00 (the "**Purchase Price**"). The Purchase Price is not dependent on a final survey of the Purchase Property.

4. Additional Consideration

As additional consideration, prior to the end of the Contingency Period, Purchaser and Seller shall execute, as a mutual condition precedent, a development agreement containing certain covenants of Purchaser more particularly described in Section 11.1 below.

5. Earnest Money Deposit

Within two (2) business days of the Effective Date, Purchaser shall open escrow with Ticor Title Insurance Company, 111 SW Columbia Street, Suite 1000, Portland, OR 97201, attn: Candice Weischedel (the "**Escrow Agent**"). Within three (3) business days of the date escrow is opened, Purchaser shall deposit the amount of One Hundred Fifty Thousand Dollars (\$150,000), which sum constitutes Purchaser's earnest money deposit under this Agreement (the "**Deposit**"). The Deposit will be placed in an interest-bearing account, and all interest thereon will be added to and become part of the Deposit. The Deposit must be applied in accordance with the terms of this Agreement.

In the event this Agreement is terminated or deemed terminated pursuant to Section 6.4 of this Agreement on or before the end of the Contingency Period, as defined below, the Deposit shall be deemed

a nonrefundable earnest money deposit except in the case of the occurrence of any one of the following, as more specifically provided in this Agreement in Sections 12.1 and 13.2: (i) Seller fails to Close in default of this Agreement; (ii) Seller is unable to obtain final land use approval, including resolution of any and all appeals and proceedings on remand, for the lawful use of an urban industrial use accessing the Road (as defined below) over EFU zoned land; or (iii) Purchaser is unable to obtain a property line adjustment and/or land division necessary to create three (3) legal units of land consistent with Areas A, B, and C depicted on Exhibit A-1, including the resolution of any appeals and proceedings on remand and any County surveyor approval of a final plat or property line adjustment deeds.

6. Inspection Contingency

6.1 Inspection Rights

Purchaser has until midnight at the end of the one-hundred eightieth (180th) day following the Effective Date (the “**Contingency Period**”) to satisfy itself concerning all physical, regulatory, financial, economic, environmental and/or other evaluations of the Property, including, without limitation, the physical condition thereof; the insurance policies, contracts, leases, and all other financial aspects of the Property; the availability of any governmental permits and approvals; and the feasibility of using the Property for Purchaser’s intended use (the “**Inspection Contingencies**”), which shall be approved or disapproved in Purchaser’s sole and absolute discretion. Purchaser has the right to perform any tests, inspections, and feasibility studies on the Property as Purchaser may deem necessary; provided, however, that Purchaser will not conduct any environmental assessment that would require soils analysis, groundwater testing, or other studies commonly associated with a Phase II Environmental Site Assessment without the prior written consent of Seller in each instance, which consent may be withheld or conditioned in Seller’s sole discretion. Seller will permit and, to the extent reasonably required by Purchaser, will assist Purchaser in providing access to Seller’s architects, engineers, contractors, subcontractors, managers, analysts, and appraisers in connection with Purchaser’s review of the Property. Purchaser shall provide proof of insurance to Seller prior to any inspections.

6.2 Inspection Expenses

All costs and expenses of all of Purchaser’s tests, inspections, and studies will be paid by Purchaser when due, regardless of whether this transaction closes.

6.3 Inspection Indemnity

Purchaser will indemnify, defend, and hold harmless Seller from and against any and all costs, losses, damages, expenses, liabilities, actions, liens, or claims arising from or related to (i) bodily injury or property damage caused by or (ii) liens resulting from activities on or about the Property by, Purchaser or any agent, employee, contractor, or invitee of Purchaser; provided however, that Purchaser’s obligations under this Section 6.3 will not apply to the mere discovery by Purchaser (or its agent, employee, contractor, or invitee) of any conditions existing on the Property and not caused by Purchaser (or its agent, employee, contractor, or invitee).

6.4 **Removal of Inspection Contingencies**

Prior to the expiration of the Contingency Period, Purchaser shall, in its sole and absolute discretion, approve or disapprove of the Inspection Contingencies by written notice to Seller and the Escrow Agent on the form attached hereto as Exhibit C, which is incorporated herein by this reference. Failure to so notify Seller and the Escrow Agent in writing on or before such date shall be deemed disapproval of the Inspection Contingencies. In the event Purchaser so disapproves in writing to or is so deemed to have disapproved of the Inspection Contingencies on or before the expiration of the Contingency Period, all rights, obligations, and liabilities of Seller and Purchaser shall terminate, and the Deposit and any interest thereon shall be returned to the Purchaser. In the event Purchaser approves in writing of the Inspection Contingencies at any time before the expiration of the Contingency Period, the Deposit and any interest thereon shall be deemed non-refundable and applicable to the Purchase Price.

If Purchaser has not terminated this Agreement or this Agreement has not been deemed terminated on or before the last day of the Contingency Period in accordance pursuant to the preceding paragraph, but after the Contingency Period Purchaser discovers or becomes aware of any information (from whatever source) which contradicts the representations and warranties of Seller under Section 9, or renders any of the representations and warranties of Seller under Section 9 untrue or incorrect in a material respect or if there is a change in applicable law materially affecting Purchaser's intended use, or any adverse change to the condition of the Property (in any case, a "**Post Waiver Disclosure**"), then Purchaser shall (i) promptly notify Seller thereof (unless Purchaser became aware thereof through a written disclosure from Seller) and (ii) have the right to terminate this Agreement by providing Seller and Escrow Holder written notice thereof within seven (7) business days (but in no event later than the business day prior to the Closing Date) after the date Purchaser first discovers or becomes aware of such Post Waiver Disclosure (which if disclosed by Seller, is the date Seller notifies Purchaser of such Post Waiver Disclosure). If such notice is received by Purchaser within seven (7) business days of the Closing Date, the Closing Date shall be postponed to allow Purchaser time to determine whether to terminate this Agreement as provided in this paragraph, and, if Purchaser so elects to terminate, this Agreement shall so terminate, Escrow Holder shall return the Deposit and all interest accrued thereon to Purchaser and no party shall have any further obligations hereunder (except in each case for the provisions hereof which survive termination hereof). If Seller becomes aware of any Post Waiver Disclosure, Seller shall promptly notify Purchaser of same by written notice in accordance with this Agreement.

6.5 **Environmental Assessments**

Purchaser is responsible for obtaining its own environmental inspections of the Property. Purchaser agrees to provide Seller with a true and complete copy of all final written environmental studies, tests, and reports that Purchaser obtains from third party consultants in connection with its inspection of the Property and, if authorized by Seller as provided in section 6.4 above, with independent splits and samples of each soil, groundwater, or other substance or material that may be obtained by Purchaser or its consultant in a form and quantity sufficient for independent analysis. Purchaser will pay for all costs of its environmental inspections regardless of whether this sale closes. If any person is required to make any report to any governmental agency as the result of any environmental inspection, the report will be submitted solely by Seller. Any studies, tests, and reports that Purchaser provides to Seller pursuant to this Section shall be

for Seller's informational purposes only and without representation or warranty as to their contents, and shall be subject to any limitations on reliance set forth in such studies, tests, or reports. Moreover, and notwithstanding anything to the contrary, Purchaser will not be required to provide any studies, tests, and reports to Seller that are internal and/or proprietary to Purchaser or to the extent restricted from doing so by the provider of such studies, tests, or reports.

6.6 Insurance

Purchaser shall ensure that any and all employees and agents that enter the Property shall have adequate general liability insurance in the amount combined single limit, or the equivalent, of not less than \$2,000,000 for each claim, incident, or occurrence, with an annual aggregate limit of \$3,000,000 for bodily injury and property damage. The insurance shall include contractual liability coverage for the indemnity provided under this Agreement. Purchaser shall furnish evidence of the insurance required in this Agreement. The insurance for general liability must include an endorsement naming the City of Millersburg, its officers, elected officials, agents, and employees as additional insureds with respect to the work under this Agreement. Insuring companies or entities are subject to Seller's acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the Seller. The Purchaser shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

6.7 Confidentiality Requirements

Purchaser may only use and disclose information it obtains about the Property solely in connection with its purchase evaluation. Unless and until it acquires the Property, Purchaser may not disclose any such information to any third party except (a) as and to the extent required by its purchase money lender; (b) to its members, shareholders, partners, permitted assignees, successors, property consultants, and attorneys; (c) as required by any court of competent jurisdiction or as may be necessary in its reasonable judgment in connection with any mediation, arbitration, or litigation in connection with this Agreement; and (d) as to any information that is otherwise a matter of public record.

7. Title to the Property

7.1 Title Report

Within ten (10) business days after escrow is opened, Seller shall deliver to Purchaser a current preliminary title report from the Escrow Agent with respect to the Property, including, but not limited to, the easement interests necessary for the Road (the "**Title Report**"). The Title Report must be accompanied by legible copies of all special exceptions referenced or described therein. Within ninety (90) days of its receipt of the Title Report, Purchaser shall, in its sole and absolute discretion, approve or disapprove of the condition of title (the "**Title Contingency**") by written notice to Seller and the Escrow Agent. Any special assessments shown in the Title Report that are objected to by Purchaser will be included in Purchaser's notice. In the event of any disapproval, Seller will notify Purchaser in writing within five (5) days after Purchaser's notification as to whether Seller agrees to remove any of the exceptions so disapproved, and upon delivering the notice, Seller will have until the Closing Date to cure such objections and cause the exceptions that Seller has agreed to remove to be removed of record and from the Title Report. If Seller does not respond within such ten business (10) day period to the exceptions listed in Purchaser's notice, then Seller shall be deemed to have elected to not cure the exceptions. Purchaser will

be deemed to have accepted all title exceptions to which it has not timely objected. Those exceptions to which Purchaser has not objected or which Purchaser accepts in writing shall herein collectively be referred to as the ***“Permitted Exceptions.”*** If, after the Title Contingency and Purchaser’s and Seller’s establishment of Permitted Exceptions as provided above in this Section, the Title Report is supplemented or new matters affecting title to the Property are discovered, which were not shown in the Title Report or prior supplement thereto, or in Purchaser’s survey, then Purchaser will have ten (10) Business Days to review and object to such items by written notice to Seller and Seller and Purchaser will otherwise have the same review and response periods as set forth in the foregoing provisions of this Section. If Seller fails to so remove any exceptions which Seller has agreed to cure by the Closing Date such failure shall be a default entitling Purchaser to the remedies under Section 13.2 of this Agreement. If Seller does not agree to remove any matters objected to by Purchaser, then, at the option of Purchaser, Purchaser may either: (i) terminate this Agreement by giving written notice to Seller on the Closing Date, in which event the Deposit shall be refunded to Purchaser promptly upon request, all rights and obligations of the parties under this Agreement shall expire, and this Agreement shall become null and void; or (ii) waive such satisfaction and performance and elect to consummate the purchase and sale of the Property without reduction in the Purchase Price, in which event all unsatisfied objections shall constitute Permitted Exceptions under this Agreement.

7.2 Rescission of Agreement—Title Defects

If Seller elects (or is deemed to elect) not to eliminate any title exception disapproved by Purchaser, Purchaser may elect to cancel this Agreement by written notice to Seller given on or before ten (10) days after Seller’s notification of the election. In this event, this Agreement will terminate, and the Escrow Agent shall immediately deliver the Deposit to Purchaser (with no further notification or direction by Seller necessary). If Purchaser does not elect to cancel this Agreement, Purchaser’s objections to the disapproved exceptions that Seller elected not to eliminate are deemed waived and the Property will be conveyed to the Purchaser with such defects without credit against the Purchase Price. The foregoing notwithstanding, Seller agrees that it will cause all trust deed liens or monetary encumbrances against the Property to be released of record by the Closing Date. If Purchaser fails to give timely notice to Seller of termination under this paragraph, then Purchaser’s right of termination will be deemed waived.

8. Seller Documents

8.1 Copies of Leases, Contracts, Other Information

Within five (5) business days of the Effective Date, Seller agrees to provide Purchaser, to the extent in its possession and to the extent Seller is permitted to transfer possession, copies of all market studies, construction plans, “as-built” plans and surveys, building permits issued in connection with the Property, notices from local, state and federal government agencies, leases (including amendments thereto), existing service and maintenance agreements and other contracts affecting the property (including copies of most recent utility bills), copies of all expense statements and operating history for the previous three years including improvement costs, environmental reports, surveys and engineering studies, and any other documents related to the Property or reasonably requested by Purchaser to assist Purchaser in its feasibility study (***“Seller’s Documents”***), which are specifically identified in ***Exhibit B***, attached hereto and incorporated herein. Except as otherwise specifically provided in this Agreement, Seller is under no obligation to create any additional data or documentation or obtain any reports for Purchaser.

8.2 *Third Party Documents*

Purchaser acknowledges Purchaser has received documents from a prior tenant of the Property, which are specifically identified in **Exhibit D**, and has actual knowledge of all matters expressly disclosed therein.

8.3 *Information Provided by Third Parties*

Purchaser acknowledges that Seller is not making any representation, warranty, or guaranty with respect to the completeness, accuracy, or reliability of any report, document, or record prepared by any third party regarding the Property.

9. **Seller's Representations**

9.1 *Content of Representations*

Seller represents, warrants, and covenants to Purchaser as follows as of the Effective Date and the Closing Date:

- 9.1.1 *Good faith and reasonable cooperation.* Seller agrees to work in good faith and reasonable cooperation in the performance and satisfaction of all obligations and conditions precedent of the Parties, including by timely signing applications and other instruments as required by governmental authorities or otherwise or as otherwise reasonably requested by Purchaser.
- 9.1.2 *No Litigation.* There is no pending or, to Seller's knowledge, threatened litigation or administrative action with respect to the Property.
- 9.1.3 *No Condemnation.* There is no pending or, to Seller's knowledge, contemplated eminent domain, condemnation, or other governmental taking of the Property or any portion thereof.
- 9.1.4 *No Additional Assessments.* To Seller's knowledge, there are no special or general assessments, which are in addition to those which will be disclosed in the Title Report, which have been levied against or are proposed for the Property.
- 9.1.5 *No Government Obligations.* There are no unperformed obligations that are currently due relative to the Property to any governmental or quasi-governmental body or authority.
- 9.1.6 *No Seller Contamination.* Seller has not caused any hazardous substance, waste, or material to be used, generated, stored, or disposed of on or transported to or from the Property in violation of any applicable law prior to or during the period in which the Seller has owned the Property, and Seller has no knowledge of any hazardous substance, waste, or material to be used, generated, stored, or disposed of on or transported to or from the Property in violation of any applicable law by any other party prior to Seller's period of ownership. Purchaser acknowledges Seller has disclosed to Purchaser that the Property was irrigated with water originating from the former Kraft papermill located east and south of

the Property and farmed, which may have included hazardous substances. For the purposes of this section, “hazardous substance, waste, or material” means all petroleum-based products, radon, asbestos, PCBs, PFAs, and all substances, wastes, and materials that are so defined or otherwise regulated in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Resource Conservation and Recovery Act of 1976, and the Hazardous Materials Transportation Act, and other federal, state, regional, or local laws or regulations relating to health, safety, and environmental protection.

- 9.1.7 *Authority of Seller.* Seller’s execution, delivery of, and performance under this Agreement are undertaken pursuant to authority validly and duly conferred on Seller and the signatories hereto.
- 9.1.8 *No Breach of Agreements.* This Agreement and the consummation of the transaction evidenced by this Agreement do not violate any other agreement to which Seller is a party.
- 9.1.9 *Nonforeign Status.* Seller is not a “foreign person” as defined in IRC section 1445 (1954).

9.2 *Seller’s Knowledge*

In each event in which any representation of Seller is limited “to Seller’s knowledge” or similar phrase, that knowledge includes only the actual, personal knowledge (and not the implied, imputed, or constructive knowledge) of Kevin Kreitman, City Manager, and Janelle Booth, Assistant City Manager, of the City of Millersburg, without any investigation or inquiry whatsoever, except for a general review of Seller’s files.

9.3 *Effect of Knowledge*

If at any time after the execution of this Agreement, either Purchaser or Seller obtains actual (not constructive) knowledge of any fact or information previously unknown to it, which causes a representation or warranty contained in this Agreement to become untrue in any material respect, said party shall promptly disclose such fact in writing to the other party hereto. If the party making the representation has taken no willful act or omission which is not permitted under this Agreement to cause the representation to become untrue, said party shall not be in default under this Agreement and the sole remedy of the other party shall be to either (i) terminate this Agreement by written notice within ten (10) days of the date on which the non-breaching party becomes aware of such fact (“**Notice Date**”), in which event Escrow Agent shall immediately deliver the Deposit to Purchaser and this Agreement, without further action of the parties, shall then become null and void such that neither party shall have any further rights or obligations under this Agreement except for those rights and obligations which by their terms expressly survive any such termination, or (ii) elect to proceed to Closing, in which case such non-breaching party shall be deemed to have waived its rights with respect to any such breach of representation or warranty. In the event the non-breaching party fails to deliver such termination notice to the breaching party on or before the Notice Date, then the non-breaching party shall conclusively be deemed to have elected to proceed under clause (ii) of the preceding sentence. Notwithstanding anything to the contrary contained in this Agreement, if the party making the representation has intentionally caused such representation to become untrue in violation of the

terms of this Agreement, then such party shall be in default under the terms of this Agreement and the other party shall be entitled to pursue the remedies set forth in Section 13.1 or 13.2 hereof, as applicable.

Purchaser acknowledges that the Property, as depicted in Exhibit A-1, does not consist of three (3) separate legal units of land in its current form.

9.4 *Survival of Warranties*

All of Seller's warranties in this Agreement will be deemed given only as of the date of this Agreement. Seller's liability for any misrepresentation or the breach of any warranty under this Agreement will survive the closing of this transaction; provided, however, that any claim for any misrepresentation or breach of any covenant will be deemed to have been waived unless Purchaser files and serves a complaint for damages or other remedies, including indemnification, based on such alleged misrepresentation or breach within twelve (12) months after the Closing Date or, if this transaction fails to close, within twelve (12) months after the date this Agreement is canceled or terminates.

10. Purchaser's Representations

10.1 *Good faith and reasonable cooperation*

Purchaser agrees to work in good faith and reasonable cooperation in the performance and satisfaction of all obligations and conditions precedent of the Parties.

10.2 *Purchaser's Existence and Authority*

Purchaser is a validly existing and duly organized corporation under the laws of the State of Delaware and has the full right and authority to conduct its business under the laws of the State of Oregon.

10.3 *No Third-Party Consents*

The execution of this Agreement by Purchaser and Purchaser's performance of all of its obligations hereunder are not subject to any approval or consent of any person, board, committee, or third party.

10.4 *No Litigation*

Purchaser is not a party to any litigation or civil or criminal proceedings; no petitions in bankruptcy have been filed by or against Purchaser; and none of Purchaser's assets are currently subject to any insolvency, receivership, or foreclosure proceedings.

10.5 *No Breach of Agreements*

This Agreement does not breach or violate any term or provision of any other agreement or contract to which Purchaser is a party.

11. Conditions to Closing

11.1 *Mutual Condition Precedent*

As additional consideration, prior to the end of the Contingency Period, Purchaser and Seller shall, as a mutual condition precedent, agree upon the form of a development agreement (the "**Development Agreement**")¹ that includes the following covenants by Purchaser: (a) to construct a facility of a predetermined and agreed upon size and dollar value on or before a date certain (the "**Building**"); (b) to hire not less than a predetermined and agreed upon number of employees a predetermined and agreed upon median wage within a predetermined and agreed upon time following completion of the construction of the facility; (c) Purchaser's cooperation with the Seller's application for funding for construction of public facilities; (d) construct at Purchaser's sole expense, including the payment of any access control permit fees, an access road connecting the Purchase Property to Conser Road together with related public facilities need for the intended use of the Purchase Property (the "**Road**"); and (e) construct at Purchaser's sole expense all necessary onsite and offsite public improvements necessary for the Building, including, but not limited to, stormwater, sewer, and extending a water main meeting the construction requirements of the City of Millersburg, to the Property connecting to an existing water main in Arnold Road and a planned water main in Transition Parkway.

In each case, Purchaser's covenants shall be subject to events of force majeure or beyond Purchaser's reasonable control. Seller shall be entitled as liquidated damages for violation of these covenants (i) an additional payment of \$1,000,000 in consideration of the reduction of Purchase Price attributed to the value of construction of the access road and other necessary public facilities; (ii) reimbursement of all broker fees and escrow fees paid by Seller; (iii) reimbursement of any monies owed to the State of Oregon in relation to grant agreements for the funding of public infrastructure or other similar agreements; and (iv) a payment of \$200,000.00 per year, to be capped at \$400,000.00 (i.e., two years of penalties) if Purchaser fails to perform or is late in the performance under the Development Agreement.

This condition precedent may only be waived or deemed satisfied by the Parties in writing and is subject to their mutual and sole satisfaction.

11.2 *Purchaser's Conditions*

Purchaser's obligation to close this transaction is subject to the satisfaction of each of the following conditions :

11.2.1 *Purchaser's Land Division and Property Configuration.* Purchaser shall, at Purchaser's sole expense, obtain a property line adjustment and/or land division necessary to create up to three (3) legal units of land consistent with Areas A, B, and C depicted on Exhibit A-1, including the resolution of any appeals and proceedings on remand and any County surveyor approval of a final plat or property line adjustment deeds.

¹ Note to City: What is the process and timing for final approval of the form of Development Agreement? Does it have to go to City Council?

- 11.2.2 *Seller's Land Use Approvals.* Seller's ability, at Seller's sole expense, to obtain final land use approval, including resolution of any and all appeals and proceedings on remand, for the lawful use of an urban industrial use accessing the Road over EFU zoned land.
- 11.2.3 *Seller Obligations – Road.* Seller shall obtain, at Seller's expense, legal access to the Property by the recordation of an easement agreement for access and utilities that permits urban industrial use and including resolution of all title objections related thereto.
- 11.2.4 *Purchaser's Land Use Approvals.* Purchaser shall, at Purchaser's sole expense, obtain the land use approval(s), including any required wetland approvals, necessary to construct the Building as contemplated in Section 11.1 above, including the resolution of any appeals and proceedings on remand.
- 11.2.5 *Seller's Compliance.* Seller's fulfillment of each of its obligations under this Agreement in all material respects.
- 11.2.6 *Seller's Representations.* The continuing accuracy of all of Seller's warranties and representations in this Agreement in all material respects.
- 11.2.7 *Removal of Contingencies.* Purchaser's removal of the Inspection Contingencies and the Title Contingency.
- 11.2.8 *Environmental.* Any environmental issues discovered during due diligence including, without limitation, including any effect of the streams on the Option Property shall be addressed to Purchaser's satisfaction. Purchaser and Seller shall work together reasonably and in good faith to address such issues and mitigate any environmental in the development of the Property or the construction of the Building on the Purchase Property.
- 11.2.9 *Wetlands.* Purchaser shall confirm that no wetlands exist on the Property or, if any, adequate mitigation is available.
- 11.2.10 *Power.* Purchaser shall determine that power capacity in the amount of 10 MW can be available on or before July 1, 2026.

11.3 Seller's Conditions

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

- 11.3.1 *Purchaser's Land Division and Property Configuration.* Purchaser shall, at Purchaser's sole expense, obtain a property line adjustment and/or land division necessary to create up to three (3) legal units of land consistent with Areas A, B, and C depicted on Exhibit A-1, including the resolution of any appeals and proceedings on remand and any County surveyor approval of a final plat or property line adjustment deeds.

11.3.2 *Seller's Land Use Approvals.* Seller's ability to obtain final land use approval, including resolution of any and all appeals and proceedings on remand, for the lawful use of an urban industrial use accessing the Road over EFU zoned land.

11.3.3 *Seller Obligations – Road.* Seller shall obtain, at Seller's expense, legal access to the Property by the recordation of an easement agreement for access and utilities that permits urban industrial use and including resolution of all title objections related thereto.

11.3.4 *Purchaser's Compliance.* Purchaser's fulfillment of each of its obligations under this Agreement.

11.3.5 *Purchaser's Representations.* The continuing accuracy of all of Purchaser's warranties and representations in this Agreement.

11.4 *Failure of Certain Conditions.* Failure of the conditions precedent set forth in Sections 11.2.5 and 11.2.6 will be a Seller default entitling Purchaser to the remedies set forth in Section 13.2. Failure of the conditions precedent set forth in Sections 11.3.4 and 11.3.5 will be a Purchaser default entitling Seller to the remedy set forth in Section 13.2.

12. Closing

12.1 Closing Date

This transaction shall be closed within thirty (30) days following the date (i) Purchaser waives all contingencies, including the Inspection Contingencies and the Title Contingency with respect to the Purchase Property and (ii) the conditions precedent to the Parties' obligations to Close set forth in Section 11.1, 11.2, and 11.3 have been satisfied or waived in writing. The transaction contemplated in the Option will close, if at all, within thirty (30) days after the expiration of the Option Period with respect to the Option Property. After Closing with respect to the Property, the balance of the terms and conditions in this Agreement that do not solely apply to the Property (e.g. the purchase price, etc.) shall apply to the Option Property in addition to the Purchase Property as set forth herein (the date this transaction does so close, as evidenced by the recordation of Seller's deed to Purchaser, being herein referred to as the "**Closing Date**").

Notwithstanding anything to the contrary, the Closing Date shall occur on or before June 30, 2025 (the "**Outside Date**") unless extended by the Parties in writing; provided, however that if Purchaser's Conditions 11.2.1 through 11.2.4 or Seller's Conditions 11.3.1 through 11.3.3 have not satisfied on or before the Outside Date, either party may terminate the Escrow by written notice to the other party and the Escrow Agent and the Deposit shall be returned to Purchaser and this Agreement shall be deemed void.

12.2 Manner and Place of Closing

This transaction will be closed by the Escrow Agent in Portland, Oregon, or any other place as the parties may mutually agree to in writing. Closing must take place in the manner and in accordance with the provisions set forth in this Agreement.

12.3 *Prorations and Adjustments*

- 12.3.1 All ad valorem real property taxes and assessments, special assessments, and expenses (collectively, the “**Expenses**”) must be prorated and adjusted between the parties as of the Closing Date. At closing, Purchaser will be given a credit against the Purchase Price equal to the sum of all accrued but unpaid Expenses and Purchaser must pay to Seller all prepaid but not yet accrued Expenses. Any taxes or additional penalties that would be due as a result of removal of the Property from any tax deferral or special-use assessment program will be charged to Seller as though the Property were removed from that program on the Closing Date.
- 12.3.2 Seller and Purchaser will each pay one-half of all conveyance, excise, or transfer taxes and fees in connection with this sale, and Purchaser will pay the recording fees for Seller’s deed.
- 12.3.3 Seller will pay the premium for a standard owner’s title insurance policy in favor of Purchaser in the amount of the Purchase Price. Any additional title insurance coverages or endorsements requested by Purchaser or its lender will be paid by Purchaser.
- 12.3.4 Seller and Purchaser will each pay one-half of the escrow and closing fees charged by the Escrow Agent.
- 12.3.5 Seller shall pay the brokerage commissions as set forth in Section 14.4 below.
- 12.3.6 Each party will pay its own attorney fees.

12.4 *Events of Closing*

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

- 12.4.1 Seller will convey fee simple title to the real property to Purchaser by statutory bargain and sale deed.
- 12.4.2 Seller shall deliver recordable assignments of any documentation reasonably necessary for Seller to convey Seller’s interest in the Property to Purchaser.
- 12.4.3 Seller will provide Purchaser with the Certificate of Nonforeign Status as provided in IRC section 1445.
- 12.4.4 The Escrow Agent will calculate the prorations agreed to herein, and the parties will be charged and credited accordingly.
- 12.4.5 Any liens to be paid by Seller at closing will be paid and satisfied of record at Seller’s expense.

- 12.4.6 Purchaser will pay the entire Purchase Price to Seller in cash, less the Deposit and the Road Credit, as adjusted for the charges and credits set forth in this Agreement.
- 12.4.7 The Escrow Agent will be committed to issuing the policy described in section 12.5 upon recordation of the closing documents.
- 12.4.8 Upon compliance with the parties' closing instructions, the Escrow Agent will record the deed to Purchaser at Purchaser's expense.

12.5 Title Insurance

Seller, at its sole cost and expense, shall convey good and marketable title to the Property free and clear of all liens, defects, and adverse encumbrances not otherwise . Seller shall, at its sole cost and expense, provide a standard American Land Title Association (ALTA) form of owner's policy of title insurance, insuring purchase of title to the Property at closing for the full amount of the Purchase Price, subject only to matters acceptable to Purchaser as indicated during the Contingency Period. If Purchaser desires an extended owner's policy, Purchaser shall pay for the cost difference between the premiums for such extended owner's policy in excess of the premiums for a standard owner's policy together with any and all costs associated with the ALTA survey. The availability of extended coverage will not be a condition of closing.

12.6 Possession

Seller must deliver possession of the Property to Purchaser on the Closing Date free and clear of any third-party possessors, tenants, or occupants and any unrecorded agreements with any third parties.

12.7 As-Is Sale

Purchaser acknowledges that Purchaser has assessed, or has had the opportunity to assess, the size, configuration, utility service, environmentally sensitive areas, means of access, permitted uses, status of title, value, condition, and all other material aspects of the Property and, except as specifically stated herein, Purchaser is not relying on, nor has Purchaser been influenced by, any statement or representation of Seller or any agent or representative of Seller regarding any of these items. Except for any actionable breaches of Seller's representations and warranties contained herein, Purchaser's acceptance of the Property and the satisfaction or waiver of all of Purchaser's conditions to closing will be evidenced solely by the closing of this transaction and without any other act or confirmation by Purchaser. Purchaser will not have the option to close this transaction without accepting the Property in its then-current condition, and Purchaser acknowledges that except for any Seller's breach of an express warranty stated in this Agreement, Purchaser is acquiring the Property "AS IS, WHERE IS" in its current condition existing as of the Closing Date, without any representation or warranty of any kind or nature by Seller.

12.8 Reserved.**12.9 Property Exchange**

Each party agrees to cooperate with the other in an IRC section 1031 property exchange in connection with this sale as long as in doing so it incurs no additional liability or expense and is not required to hold title to any other property, the Closing Date is not affected and the entire amount owed to Seller hereunder is paid in the manner stated in this Agreement. Neither party will have any responsibility for the ultimate characterization of this transaction for the other party's tax purposes, and this sale is not conditioned upon and may not be rescinded as a result of that characterization or either party's ability to effect an exchange.

13. Defaults and Failure to Close**13.1 Seller's Remedies**

If this transaction fails to close on account of a default by Purchaser under this Agreement, the Deposit will be forfeited by Purchaser and retained by Seller as liquidated damages as Seller's sole remedy for the default. This amount has been agreed by the parties to be reasonable compensation and the exclusive remedy for Purchaser's default, since the precise amount of damages would be difficult to determine.

13.2 Purchaser's Remedies

If this transaction fails to close on account of a default by Seller under this Agreement, Purchaser's sole and exclusive remedy will be either (i) the return of the Deposit (with Purchaser thereby waiving any other remedy that Purchaser may have against Seller at law or in equity, including, without limitation, the right to specific performance), and recovery of Purchaser's attorney fees and costs incurred in this transaction not to exceed the amount of \$200,000.00; or (ii) an action for specific performance of this Agreement for the conveyance of the Property to Purchaser (with Purchaser thereby waiving any other remedy that Purchaser may have against Seller at law or in equity).

13.3 Defaults

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

13.4 Costs and Attorney Fees

In the event that a suit, an action, an arbitration, or a mediation is instituted to interpret or enforce the terms of this Agreement or with respect to any dispute under this Agreement, the prevailing party is entitled to recover from the other party such sum as the court, arbitrator, or mediator may adjudge reasonable as costs and expert-witness and attorney fees in any such proceeding, at trial, on any appeal or petition for review, and in any bankruptcy proceeding

(including the adjudication of any issues peculiar to bankruptcy law), in addition to all other sums provided by law.

13.5 Waiver of Jury Trial

As part of the consideration for this Agreement, each of the parties hereto waives the right to trial by jury in connection with any dispute or action under this Agreement.

14. Legal Relationships

14.1 Relationship of Parties

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

14.2 No Third-Party Beneficiaries

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

14.3 Joint and Several Liability

If either party is comprised of more than one person or entity, the obligations of each person or entity comprising that party under this Agreement will be joint and several.

14.4 Real Estate Brokers

The parties recognize that Jones Lang LaSalle Brokerage, Inc. ("**Purchaser's Broker**") is exclusively representing Purchaser, and Seller is exclusively representing itself in this transaction. Seller agrees to pay a real estate broker's commission to Purchaser's Broker equal to five percent (5%) of the Purchase Price from the proceeds of escrow upon closing. To the extent Seller engages brokerage representation, it shall be responsible for paying such representative an agency of listing commission pursuant to a separate agreement, and the commission to Purchaser's Broker shall be reduced to three percent (3%). Each party warrants to the other party that, except for Purchaser's Broker, no broker or agent was consulted or engaged in connection with this transaction, and each party will indemnify, defend, and hold harmless the other from and against all claims, losses, and liabilities made or imposed for any commission or finder's fee to any broker or agent (other than Purchaser's Broker) and arising out of the actions of such party.

14.5 Indemnified Parties

Any indemnification contained in this Agreement for the benefit of a party will extend to that party's members, directors, shareholders, officers, employees, and agents.

14.6 Assignments and Successors

Purchaser may assign or otherwise transfer its rights under this Agreement or any interest herein, voluntarily, involuntarily, or by operation of law, upon written notice to Seller and the Escrow Agent. Purchaser will not be released from its obligations under this Agreement in the event of any assignment or transfer by Purchaser. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties hereto and their respective successors and assigns.

15. General Provisions

15.1 Notices

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

Seller: City of Millersburg
 Attn: Kevin Kreitman
 4222 NE Old Salem Road
 Millersburg OR 97321
 Email: kevin.kreitman@millersburgoregon.gov

with a copy to:

Alan M. Sorem
 Saalfeld Griggs PC
 PO Box 470
 Salem, OR 97308
 Email: asorem@sglaw.com

Purchaser: Timberlab, Inc.
 342 SW Second Ave., Ste. 210
 Portland, OR 97204
 Attn: Christopher A. Evans
 Email: _____

with a copy to:

Jones Lang LaSalle Brokerage, Inc.
 1120 NW Couch Street, Suite 500
 Portland, OR 97209
 Attn: Kevin Kriesien
 Email: kevin.kriesien@jll.com

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

15.2 Time of Essence

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

15.3 Invalidity of Provisions

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

15.4 Neutral Construction

This Agreement has been negotiated with each party having the opportunity to consult with legal counsel and will not be construed against either party.

15.5 Captions

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

15.6 Waiver

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

15.7 Subsequent Modifications

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

15.8 Saturday, Sunday and Legal Holidays

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

15.9 Venue

In any action brought to interpret or enforce any of the provisions of this Agreement, the venue of same will be laid in Linn County, Oregon.

15.10 Applicable Law

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

15.11 Entire Agreement

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

15.12 No Offer

By providing an unexecuted copy of this Agreement to any person, neither party will be deemed to have made an offer to sell or purchase or otherwise indicated its willingness to enter into any transaction with respect to the Property, and this Agreement will not be binding upon any party unless and until it has been fully executed and delivered by Seller and Purchaser.

15.13 No Recording

Neither this Agreement nor any memorandum or short form thereof may be recorded.

15.14 Counterparts, Facsimile and Electronic Signatures

This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Facsimile or email transmission of any signed original document, and retransmission or email of any signed facsimile or email transmission, shall be the same as delivery of an original. The parties agree that this transaction may be conducted and closed by electronic means in accordance with the provisions of the Uniform Electronic Transactions Act ("**UETA**") as codified in ORS Chapter 84. At the request of either party, the parties shall confirm facsimile or email transmitted signatures or electronic signatures by signing an original document and providing the signed original to the requesting party.

15.15 Statutory Warning (ORS 93.040(2))

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010

OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

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

SELLER:
CITY OF MILLERSBURG

By: _____
Kevin Kreitman, City Manager

Date: _____

PURCHASER:
TIMBERLAB, INC.

By: _____
Christopher A. Evans, President

Date: _____

EXHIBIT A - 1
DEPICTION OF THE PURCHASE PROPERTY AND OPTION PROPERTY

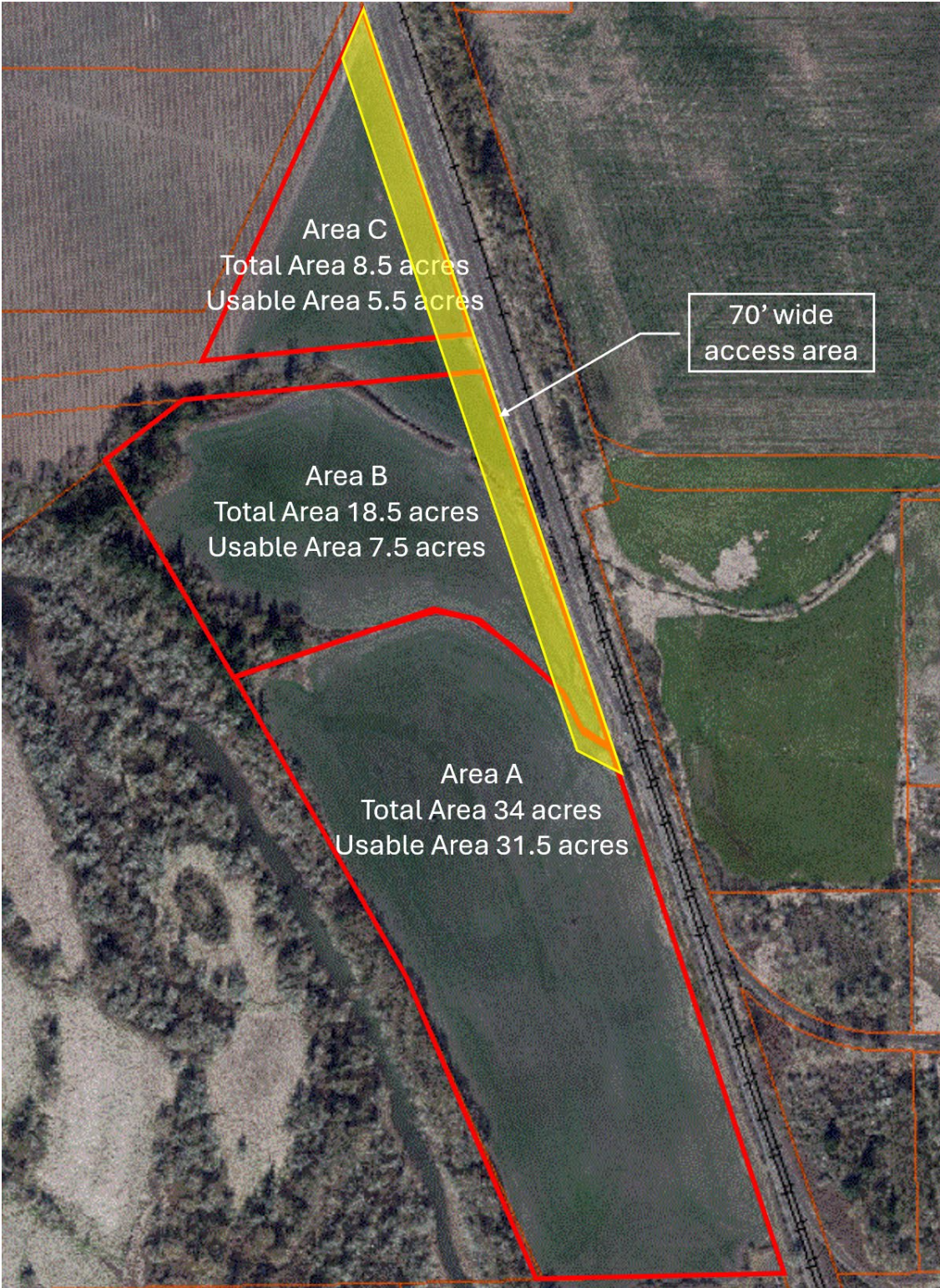


EXHIBIT A-2
LEGAL DESCRIPTION OF THE PROPERTY

EXHIBIT B
LIST OF SELLER'S DOCUMENTS

**EXHIBIT C
WAIVER OF CONTINGENCIES AND ACCEPTANCE OF PROPERTY**

SELLER AND BUYER HEREBY AGREE THAT THE FOLLOWING SHALL BE A PART OF THE FOREGOING AGREEMENT. THE FOLLOWING SHALL EXPRESSLY SURVIVE CLOSING OF THE SALE OF THE PROPERTY AND ISSUANCE AND RECORDATION OF THE DEED.

Purchaser has been, and is hereby further again informed and instructed, to investigate, inspect and perform all due diligence as needed or as elected by Purchaser with regard to all matters relating to the Property and to complete such investigation and due diligence to his or her satisfaction. Purchaser acknowledges that Purchaser has had full and complete opportunity and access to inspect, investigate, evaluate and assess any and all matters relating to the Property and otherwise.

Purchaser acknowledges that Purchaser has completed all necessary inspections, investigations and due diligence to be fully informed with regard to all aspects relating to the Property and to the Purchaser's satisfaction. Purchaser hereby accepts the Property AS-IS, WHERE-IS EXCEPT AS EXPRESSLY SET FORTH SECTION 9 THE AGREEMENT OR IN ANY INSTRUMENT TO BE DELIVERED TO OR FOR THE BENEFIT OF BUYER PURSUANT TO THE AGREEMENT, SELLER IS MAKING NO REPRESENTATIONS OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATTER, INCLUDING WARRANTIES OF MERCHANTABILITY, SUITABILITY, ORIGINALITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE INCLUDING ANY WARRANTIES WITH REGARD TO THE CONDITION OF THE PROPERTY OR ITS FITNESS FOR ANY INTENDED USE. NOTWITHSTANDING ANY TERM OR PROVISION OF THIS PARAGRAPH AND/OR THE AGREEMENT, THE "AS-IS, WHERE-IS" NATURE OF THE SALE OF THE LAND AND THE PROPERTY AND/OR THE FOREGOING SHALL NOT CONSTITUTE A WAIVER OR RELEASE OF ANY RIGHTS OR REMEDIES OF BUYER UNDER, OR WITH RESPECT TO, OR ARISING UNDER ANY ENVIRONMENTAL LAWS AND/OR HAZARDOUS MATERIALS WITH RESPECT TO SELLER'S PREDECESSORS IN TITLE TO THE LAND.

SELLER: City of Millersburg	
By: _____	Date
Title:	

BUYER:	
By: _____	Date
Title:	

EXHIBIT D
LIST OF TENANT DOCUMENTS