

ZELLERHOFF CONSTRUCTION, INC.

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Agreement is made as of the date this instrument is fully executed by and between ZELLERHOFF CONSTRUCTION, INC., a Washington corporation ("Seller"), and KING COUNTY, a political subdivision of the State of Washington ("Buyer"), for purchase and sale of that certain property situated in King County, Washington, described on Exhibit "A", and all rights appurtenant (the "Property")

1. **PURCHASE PRICE:** The total purchase price for the Property is **Four Hundred and Thirty Five Thousand and No/100 Dollars (US \$435,000.00)** ("Purchase Price"), which shall be comprised of Three Hundred and Eighty Five Thousand and No/100 Dollars (US \$385,000.00) contributed by Buyer, and Fifty Thousand and No/100 Dollars (US \$50,000) contributed by Friends of Mukai, a local Vashon Community Group. The Purchase Price is payable at closing in cash.

2. **TITLE:**

2.1 **Deed:** At closing, Seller will execute and deliver to Buyer a Statutory Warranty Deed conveying and warranting good and marketable title to the Property free and clear of all defects or encumbrances except for the lien of real estate taxes and drainage service charges not yet due and payable and those defects and/or encumbrances (if any) identified on Exhibit "B" (collectively, "Permitted Exceptions").

2.2 **Title Insurance:** At closing, Buyer shall receive (at Buyer's expense) an owner's Standard ALTA policy of title insurance, dated as of the closing date and insuring Buyer in the amount of the Purchase Price against loss or damage by reason of defect in Buyer's title to the Property subject only to the printed exclusions appearing in the policy form and any Permitted Exceptions.

3. **CONTINGENCIES:**

3.1 **Environmental Review Contingency:** The sale of the Property is contingent on a determination by King County based upon an Environmental Site Assessment that there are not and have not been any significant releases of hazardous materials on the Property. Seller hereby grants Buyer's employees, agents or contractors a right of entry onto the Property for any site inspections performed in connection with such Assessment.

3.2 **Title Review:** The sale of the Property is contingent on a review of a Commitment for Title Insurance to be prepared by Stewart Title Company to determine the nature of

special exceptions affecting the title and to confirm that the Seller has the capacity to convey good and marketable title.

3.3 **Friends of Mukai:** The sale of the Property is contingent upon the local Vashon community group, Friends of Mukai, depositing Fifty Thousand and No/100 Dollars (US\$50,000) into escrow prior to Closing.

3.4 **Council Approval of Surplus:** The sale of the Property is contingent upon approval by the Metropolitan King County Council of the surplus and sale of tax parcel 312303-9046 ("Surplus Property") located on Vashon Island to Seller in the amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00).

3.5 **Water Right:** The sale of the Property is contingent upon King County purchasing a water share for tax parcel 312303-9046 prior to Closing.

3.6 **Removal of Contingencies:** King County shall have a period of 180 days from the date all parties have signed this Agreement to remove all contingencies. King County may remove such contingencies by sending written notice thereof to Seller pursuant to Paragraph 8 herein. If the contingencies are not removed within this period, this Agreement shall be null and void.

#### 4. BUYER'S INSPECTIONS

4.1 **Present Condition Inspection:** Within two weeks of Sellers acceptance of said purchase and sale agreement, Buyer shall have access to the Property and structures for the purposes of performing an interior and exterior inspection, and shall be permitted to take photographs of the Property to document the present condition of the Property.

4.2 **Damage Assessment Inspection:** Buyer shall have access to the Property two weeks prior to the scheduled Closing to perform an inspection to confirm the Property remains in substantially the same condition as documented pursuant to Paragraph 4.1, above. If damage is discovered, Seller shall be responsible as set forth in Paragraph 5, below.

4.3 **Inspection Indemnification:** In connection with the inspections set forth in Paragraphs 3.1, 4.1 and 4.2, Buyer agrees to hold harmless, indemnify and defend Seller, its officers, agents and employees, from and against all claims, losses, or liability, for injuries, sickness or death of persons, including employees of Buyer caused by or arising out of any act, error or omission of Buyer, its officers, agents, contractors, subcontractors or employees in entering Seller's property for the above purposes, to the extent not caused by or arising out of any act, error or omission of Seller, its officers, agents and employees.

5. **RISK OF LOSS:** Seller will bear the risk of loss of or damage to the Property prior to closing. In the event of such loss or damage to the Property, Seller shall promptly notify Buyer thereof and Buyer may, in its sole discretion, terminate this

Agreement by giving notice of termination to the Seller.

**6. SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS:**

Seller represents, warrants and covenants to the Buyer at the date of execution of this Agreement and the date of closing that:

**6.1 Authority:** Seller, and the person(s) signing on behalf of Seller, has full power and authority to execute this Agreement and perform Seller's obligations, and if Seller is a corporation, all necessary corporate action to authorize this transaction has been taken;

**6.2 No Leases:** The Property is not subject to any leases, tenancies or rights of persons in possession;

**6.3 No Material Defect:** Seller is unaware of any material defect in the Property;

**6.4 Debris and Personal Property:** Seller will remove all debris and personal property, prior to closing, located on the Property (if any) at Sellers cost and expense, and Seller will indemnify and hold Buyer harmless from all claims and expenses arising from such removal;

**6.5 Contamination:** Seller represents and warrants that he/she/it has not caused or allowed the generation, treatment, storage, or disposal of hazardous substances on the property, except in accordance with local, state, and federal statutes and regulations, nor caused or allowed the release of any hazardous substance onto, at, or near the Property. Seller is in compliance with all applicable laws, rules, and regulations regarding the handling of hazardous substances, has secured all necessary permits, licenses and approvals necessary to its operation on the Property, and is in compliance with such permits. Seller has not received notice of any proceedings, claims, or lawsuits arising out of its operations on the Property and, to the Seller's knowledge, the property is not, nor has it ever been subject to the release of hazardous substances.

**6.6 Fees and Commissions:** Seller shall pay for any broker's or other commissions or fees incurred by the Seller in connection with the sale of the Property and Seller shall indemnify and hold Buyer harmless from all such claims for commission and/or fees.

**6.7 Indemnification:** Seller agrees to indemnify, defend, and hold harmless Buyer, its employees, agents, heirs and assigns, from and against any and all damage, claim, liability, or loss, including reasonable attorney's and other fees, arising out of or in any way connected to the breach of any representation or warranty contained herein. Such duty of indemnification shall include, but not be limited to damage, liability, or loss pursuant to all federal environmental laws, Washington State environmental laws, strict liability and common law.

7. **CLOSING:**

7.1 **Time for Closing:** The sale of the Property and Surplus Property will be closed simultaneously in the office of the Closing Agent within 21 days after all contingencies set forth in Paragraph 3 herein have been removed.

Buyer and Seller shall deposit in escrow with the Closing Agent all instruments, documents and moneys necessary to complete the sale in accordance with this Agreement. As used in this Agreement, "closing" and "date of closing" means the date on which all appropriate documents are recorded and proceeds of the sale are available for disbursement to Seller. The Closing Agent shall be:

Stewart Title Company  
1420 Fifth Avenue, Suite 440  
Seattle, WA 98101

7.2 **Prorations:** Closing Costs: Seller will pay real estate excise taxes (if any are due) and real property taxes prorated through the date of closing. Buyer will pay the premium for its owner's title insurance policy, the cost of recording the Statutory Warranty Deed from the Seller, and the Closing Agents escrow fees.

7.3 **Possession:** Buyer shall be entitled to possession of the Property at Closing.

8. **NOTICES:** Any notices required herein shall be given to the parties at the addresses listed below:

TO SELLER:  
Zellerhoff Construction Inc.  
9717 SW Dolphin Point Rd.  
Vashon, WA 98070

TO BUYER:  
King County Water and Land Resources Division  
Open Space Acquisitions  
201 South Jackson Street, Suite 600  
Seattle, WA 98104

9. **GENERAL:** This is the entire agreement of the Buyer and Seller with respect to the Property and supersedes all prior or contemporaneous agreements between them, written or oral. This Agreement may be modified only in writing, signed by Buyer and Seller. Any waivers under this agreement must be in writing. A waiver of any right or remedy in the event of a default will not constitute a waiver of such right or remedy in the event of any subsequent default. This Agreement is for the benefit of, and binding upon, Buyer and Seller and their heirs, personal representatives, successors and assigns. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision. Time is of the essence in this agreement.

10. **WASTE; ALTERATION OF PROPERTY:** Seller shall not commit waste on the Property, nor shall Seller remove trees or other vegetation, coal, minerals or other

valuable materials nor shall Seller substantially alter the surface or subsurface of the Property without the express written consent of Buyer.

11. **SURVIVAL OF WARRANTIES:** The terms, covenants, representations and warranties shall not merge in the deed of conveyance, but shall survive closing.

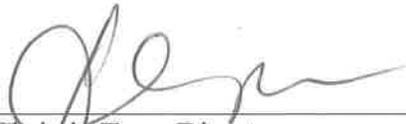
12. **TERMINATION OF OFFER:** This offer shall terminate if not accepted by Seller on or before October 10, 2016.

13. **SECTION 1031 EXCHANGE:** Buyer and Seller agree that Seller is contemplating the acquisition of an exchange property to qualify for deferral of capital gains under Section 1031 of the Internal Revenue Code. Buyer agrees to cooperate with Seller on such exchange, provided that additional closing costs incurred by Seller in effecting such exchange shall be borne by Seller.

Signed in duplicate original.

BUYER: King County, a political subdivision  
of the State of Washington.

BY:

  
\_\_\_\_\_  
Christie True, Director  
Department of Natural Resources and Parks

Date:

10/6/2016

SELLER:  
Zellerhoff Construction Inc.

  
\_\_\_\_\_  
By: Z. P. Zellerhoff  
Its: President

10/31/16  
\_\_\_\_\_  
Date

**EXHIBITS:** Exhibit A, Legal Description  
Exhibit B, Permitted Exception/Title Report

STATE OF WASHINGTON)
)SS
COUNTY OF KING )

I hereby certify that I know or have satisfactory evidence that FRANK P. ZELLERHOFF, JR. is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged in his capacity as PRESIDENT of Zellerhoff Construction Inc., to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: OCTOBER 3, 2016



Handwritten signature of Janice K. Estrella

JANICE K. ESTRELLA
Printed signature

Notary Public in and for the State of Washington,
residing at

WASHOUL

My appointment expires 12/29/2016



ZELLERHOFF CONSTRUCTION, INC.

EXHIBIT A

LEGAL DESCRIPTION

TRACT 9, STATE SUBDIVISION PORTION SECTION 31, TOWNSHIP 23 NORTH, RANGE 3 EAST, W.M., IN KING COUNTY, WASHINGTON (VACATED), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 20 OF PLATS, PAGE 26, IN KING COUNTY, WASHINGTON;

EXCEPT THE SOUTH 196.2 FEET THEREOF;

EXCEPT THE EAST 30 FEET THEREOF CONVEYED TO KING COUNTY FOR ROAD PURPOSES BY DEED RECORDED UNDER RECORDING NUMBER 5339903;

AND EXCEPT THAT PORTION THEREOF LYING WITHIN THE SOUTH 15 FEET OF THE NORTH 1,338 FEET OF THE EAST 640 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 31 LYING WEST OF THE EAST 310 FEET.

ZELLERHOFF CONSTRUCTION, INC.

EXHIBIT B

PERMITTED EXCEPTIONS/TITLE REPORT

Those special exceptions listed on Stewart Title Company Title Report #01148-45862 (Third Report) dated June 10, 2016, and any supplements thereto (which Title Report and Supplements are incorporated into this Agreement by this reference) numbered 1 (Paid Current), 2, 10, 11, 12 and 13.