

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is dated effective _____, 2022 (“**Effective Date**”), between STAFFORD HOLDINGS, LLC, an Idaho limited liability company, (“**Seller**”), and CITY OF HAYDEN, a municipal corporation organized pursuant to the laws of the State of Idaho, or its assigns as permitted herein (“**Buyer**”).

1. **Purchase.** Seller shall sell and Buyer shall purchase a portion of that certain real property located at 1615 Dakota Avenue, Hayden, Idaho 83835, and more particularly described as follows:

That portion of the South 1/2 of Tract 158 of Hayden Lake Irrigated Tracts, according to the Plat thereof recorded in Book C of Plats, Pages 66 and 67, records of Kootenai County, Idaho, being situated in the SE 1/4 of Section 15, Township 51 North, Range 4 West, Boise Meridian, City of Hayden, Kootenai County, Idaho, being more particularly described as follows:

COMMENCING at the northwest corner of said South 1/2 of Tract 158, thence South 88°18’06” East along the north line of said South 1/2 of Tract 158, 626.57 feet, more or less, to the west right-of-way line of Ramsey Road, said point being the **POINT OF BEGINNING**;

thence South 01°11’44” West, along said west right-of-way line, 125.00 feet;

thence North 88°18’06” West, parallel with said north line of the South 1/2 of Tract 158, 220.00 feet;

thence North 01°11’44” East, parallel with said west right-of-way line of Ramsey Road, 125.00 feet, more or less, to said north line of the South 1/2 of Tract 158;

thence South 88°18’06” East, along said north line, 220.00 feet, more or less, to the **POINT OF BEGINNING**.

together with all development rights, fixtures and improvements located thereon and all easements, rights and appurtenances thereto, whether or not recorded, including, without limitation, all water and water rights, and all ditch and ditch rights, if any, used in connection with the real property, and all of Seller’s right, title and interest in any assignable licenses, permits, mineral rights or other items that may benefit the same (collectively, the “**Property**”), all in accordance with the terms and conditions hereinafter set forth. Said legal description is attached hereto and incorporated herein by reference as **Exhibit A**.

2. **License for Entry.** Seller grants to Buyer and its agents, employees and contractors a license to enter upon the Property for all purposes reasonably related to a full and adequate determination of the suitability of the Property for such purposes, including, without

limitation, the right to conduct surveys, soils tests, engineering studies, and environmental tests and audits. The term of the license shall begin on the Effective Date and shall continue until the closing of this transaction or the termination of this Agreement, whichever is earlier. In the event Buyer elects to terminate this Agreement as provided in Section 6 and if the Property, or any part thereof, is disrupted as a result of Buyer's exercise of the license granted herein, Buyer shall restore the Property as nearly as reasonably possible to its condition immediately prior to Buyer's exercise of the license granted herein. Buyer will maintain insurance in amounts required by the Idaho Tort Claims Act, and will require its consultants, contractors, and/or agents that enter upon the Property to maintain commercial general liability insurance insuring against any liability arising out of their activities in, upon, about or with respect to the Property, with limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate (which limits may include applicable excess or umbrella coverage). All policies must insure the contractual indemnification and defense obligations under this Agreement and must: (i) name Seller as an additional insured with respect to all Claims arising out of the activities of the Buyer, its consultants, contractors, and/or agents' in, upon, about or with respect to the Property; (ii) contain a cross-liability provision; and (iii) be primary and noncontributing with any other insurance available to Seller. Buyer must provide Seller with evidence of required insurance coverages prior to any entry upon the Property. Buyer will pay all costs incurred in connection with Buyer's due diligence activities regarding the Property, will promptly repair and restore any damage caused to the Property by such activities, and will not permit any mechanics or other liens to be filed against the Property as a result of such activities. BUYER WILL INDEMNIFY, DEFEND AND HOLD THE SELLER HARMLESS FROM AND AGAINST ANY CLAIMS ARISING OUT OF ANY ACTIVITIES OF BUYER, ITS CONSULTANTS, CONTRACTORS, AND AGENTS IN, UPON, ABOUT OR WITH RESPECT TO THE PROPERTY PRIOR TO CLOSING; PROVIDED, HOWEVER, THAT BUYER WILL NOT BE RESPONSIBLE FOR INDEMNIFYING SELLER FOR THE MERE DISCOVERY OF ANY PRE-EXISTING ADVERSE CONDITION ON THE PROPERTY (ENVIRONMENTAL OR OTHERWISE) OR FOR SELLER'S ACTUAL NEGLIGENCE AS DETERMINED BY A COURT OF COMPETENT JURISDICTION

3. **Purchase Price.** The total purchase price of the Property shall be ONE HUNDRED EIGHTEEN THOUSAND AND TWO HUNDRED AND FIFTY DOLLARS (\$118,250.00) ("Purchase Price"). The Purchase Price shall be due at closing.

(a) Within three (3) business days after the Effective Date, Buyer shall deliver the sum of ONE THOUSAND AND 00/100 DOLLARS (\$1,000.00) to the Escrow Holder (as defined in below) as an earnest money deposit ("**Earnest Money Deposit**"). The Escrow Holder shall invest the Earnest Money Deposit in an interest-bearing trust account at a federally-insured financial institution. Buyer shall provide its taxpayer identification number to the Escrow Agent contemporaneously with its deposit of the Earnest Money Deposit.

(b) All of the Earnest Money Deposit, together with all accrued interest, shall be credited to and considered as payment of part of the Purchase Price at the time and upon consummation of the closing of this transaction. The Earnest Money Deposit and all accrued interest shall be returned to Buyer if this Agreement is terminated due to

Buyer's inability to satisfy or waive its conditions set forth herein. In the event Buyer defaults under this Agreement following its satisfaction and/or waiver of its conditions and expiration of the Feasibility Period as defined below and any extensions thereof, the Earnest Money Deposit and the accrued interest earned thereon, shall be remitted to Seller as liquidated damages and as Seller's sole and exclusive remedy for Buyer's default.

(c) Upon Buyer's satisfaction or waiver of its conditions pursuant to Section 6 below, the Earnest Money Deposit and any Extension Fee(s) (as defined below), including all interest accrued thereon, shall be nonrefundable to Buyer, except for Seller's default hereunder or pursuant to Section 6(e) below.

4. **Temporary Construction Easement.** As a condition of this Agreement, Seller agrees to deliver to Buyer a fully executed temporary construction easement ("Temporary Easement") for the purpose of placing construction equipment, excavated materials and other project-related materials upon the parcel of land more particularly described as follows:

That portion of the South 1/2 of Tract 158, Hayden Lake Irrigation Tracts, according to the Plat thereof recorded in Book C of Plats, pages 66 and 67, records of Kootenai County, Idaho, being situated in the SE 1/4 of Section 15, Township 51 North, Range 4 West, Boise Meridian, City of Hayden, Kootenai County, Idaho, more particularly described as follows:

The North 125 feet of said South 1/2 of Tract 158, lying west of Ramsey Road.

EXCEPTING THEREFROM: Any portion thereof conveyed to the City of Hayden for the H-6 Lift Station (as described in **Exhibit A**).

A copy of the Temporary Easement is attached as **Exhibit B**.

5. **Delivery of Documents.** Seller shall within ten (10) days after the Effective Date deliver to Buyer the most recent survey, plat, map, drawings, appraisal or other similar materials and copies of all existing building permits, and conditional use permits relating to the Property, if any, within Seller's possession or control. If Buyer terminates this Agreement for any reason whatsoever, Buyer shall return to Seller all items mentioned above which Seller has delivered to Buyer.

6. **AS-IS.** BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT (A) SELLER IS SELLING AND BUYER IS PURCHASING THE PROPERTY "AS IS, WHERE IS AND WITH ALL FAULTS" AND (B) EXCEPT FOR SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BUYER IS NOT RELYING ON ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR AGREEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, FROM SELLER OR ANY SELLER PARTY AS TO ANY MATTER CONCERNING OR RELATING TO THE PROPERTY, OR SET FORTH, CONTAINED OR

ADDRESSED IN THE DILIGENCE MATERIALS (INCLUDING WITHOUT LIMITATION, THE COMPLETENESS THEREOF), INCLUDING WITHOUT LIMITATION: THE QUALITY, NATURE, HABITABILITY, MERCHANTABILITY, FITNESS, USE, OPERATION, VALUE, MARKETABILITY, ADEQUACY OR PHYSICAL CONDITION OF THE PROPERTY OR ANY ASPECT OR PORTION THEREOF

7. **Conditions Subsequent.** Notwithstanding anything to the contrary in this Agreement, Buyer may terminate this Agreement without liability unless at or prior to 5:00 p.m. (Pacific Time) on April 30, 2022, (“Feasibility Period”) each of the following conditions has been met or Buyer has waived such condition in writing. Seller shall cooperate with Buyer to execute any documents which may be necessary or convenient to the performance of these conditions:

(a) Buyer shall have inspected and examined the Property, to the extent Buyer deems necessary, in its sole discretion, to determine the condition of the Property and to determine if the Property will satisfy the business needs of Buyer.

(b) Buyer shall have determined if the Property is properly zoned for Buyer’s intended use and all studies, reports, permits, approvals, including but not limited to site plan approvals, if required, building and use permits, architectural and other approvals, if any, required by the appropriate public or governmental authorities to allow the use of the Property as desired by Buyer have been obtained and are in force and effect.

(c) Buyer, at its expense, may obtain a current certified ALTA boundary and topographic surveys of the Property prepared by a licensed surveyor selected by Buyer and in accordance with Buyer’s requirements (“**Survey**”) which shall comply with (i) the requirements of the Title Company, as defined below, and Buyer; and (ii) the current “Minimum Standard Detail Requirements for Land Title Surveys” adopted by the American Land Title Association and the American Congress of Surveyors and Mappers for a Class A survey, and include, but not be limited to (a) setbacks, (b) all improvements, (c) location of utilities; (d) significant observations otherwise disclosed, (e) show that the Property boundaries extend to all adjacent streets, and rights-of-way which have been dedicated to and accepted for public use by the appropriate governmental authority, (f) that no governmental agency has required that anything be placed in or on any adjacent public road or has otherwise imposed any restriction that precludes vehicular or pedestrian passage across any adjacent public road between the portions of the Property on either side of any adjacent public road, if any, and (g) if the Property contains more than two (2) parcels, then all parcels together form one (1) parcel, and each parcel forming the larger parcel shares its interior boundary lines with the other parcel or parcels. It is agreed that the legal description contained in the Survey shall be the legal description used in the Deed (as defined below) conveying the Property to Buyer. Buyer shall examine the Survey and shall make any objections thereto in writing to Seller no later than five (5) business days after the last to be received by the Buyer of (i) the Survey and (ii) the Commitment, as defined below, and the copy of each exception document listed in the Commitment, as required below.

(d) Pioneer Title Co., 100 E. Wallace Avenue, Coeur d'Alene, ID 83814, (208) 664-8254, shall act as the **Title Company/Closing Agent** for this transaction. Promptly following the Effective Date, Title Company will deliver to Buyer and Seller a title insurance commitment or preliminary title report (the "Title Commitment") showing the status of title to the Property. Any matters disclosed by the Title Commitment or Survey which are approved, deemed approved, or waived by Buyer pursuant to the terms of this Agreement shall constitute "Permitted Exceptions." Buyer shall examine the Commitment and shall make any objections thereto in writing to Seller ("**Notice of Objection**") no later than five (5) business days after the last to be received by Buyer of (i) the Survey and (ii) the Commitment and the copy of each exception document listed in the Commitment, as required above. In the event there exists any such encumbrance or exception in the Commitment or the Survey to which Buyer objects, Seller shall have five (5) business days after its receipt of the Notice of Objection to elect (in Seller's sole reasonable discretion) to cure and remove or insure over the objectionable encumbrance or exception. Seller need not cure any objection to a financial encumbrance or exception prior to closing, it being agreed that such financial encumbrances or exceptions shall be satisfied at closing from the proceeds of the Purchase Price. If Seller declines to cure and remove or to insure over the objectionable non-financial encumbrance or exception within such five (5) business day period or if Seller elects to cure and remove the objectionable encumbrance or exception but is unable to cure and remove such objectionable encumbrance or exception or, alternatively, to obtain a commitment from the Title Company prior to the expiration of the Feasibility Period or any extensions thereof that the Title Company will insure over the same, this Agreement, at the option of Buyer and upon written notice from Buyer to Seller, shall terminate. If Seller elects to cure and remove the objectionable encumbrance(s) or exception(s), Seller agrees to use its best efforts to remove any objectionable encumbrance or exception. If Buyer does not terminate this Agreement, the objection to the encumbrance or exception shall be waived and these exceptions and encumbrances, together with any exceptions not objected to shall be "**Permitted Exceptions.**" It is understood and agreed that if this Agreement is terminated by Buyer as provided in this Section 6, Seller shall be responsible for all fees charged by Title Company/Escrow Agent for cancellation of the Commitment.

(e) Title to the Property shall be good and marketable and shall be free and clear of all liens, encumbrances, easements, assessments, restrictions, tenancies (whether recorded or unrecorded) and other exceptions to title, except the lien of real property taxes not yet due and payable and those exceptions approved in writing by Buyer ("**Permitted Exceptions**"). Between the date of this Agreement and the earlier of the close of escrow or the termination of this Agreement, Seller shall not, except with Buyer's prior written consent, execute any easement, covenant or restriction (or amendment to any existing easement, covenant or restriction) affecting the Property or any portion thereof (except to the extent required to delete such easement, covenant or restriction as an objectionable exception to title). Seller agrees to remove on or before closing all monetary liens and encumbrances affecting the Property except the lien of real property taxes not yet due and payable, and except any such other lien or encumbrance which is a Permitted Exception.

(f) Upon Closing, the Title Company shall be prepared to issue an extended coverage ALTA Owner's Policy of Title Insurance ("**Title Policy**"), including any endorsements required by Buyer, in the full amount of the Purchase Price, insuring that marketable fee simple title to the Property is vested in Buyer or Buyer's designee.

(g) Buyer, at its expense, has obtained whatever soils tests and engineering studies (certified to Buyer, and prepared in accordance with Buyer's requirements), which shall show the Property to be suitable, in Buyer's sole opinion, for Buyer's proposed use.

(h) All of Seller's representations and warranties under this Agreement shall continue to be true and correct as of the date of closing.

Prior to the expiration of the Feasibility Period or any extension of the Feasibility Period, Buyer shall advise Seller in writing if it has satisfied or waived all of its conditions set forth in this Section. In the event Buyer fails to provide such written notice to Seller, this Agreement shall automatically terminate and both parties hereto shall be released from any further obligations hereunder except for liabilities, actual or contingent, which arose prior to the date of termination. Notwithstanding anything to the contrary herein, if Seller is unwilling or unable to cure and remove or insure over any encumbrance or exception objected to by Buyer, Buyer shall be entitled to a return of the entire Earnest Money Deposit and all interest accrued thereon.

Notwithstanding anything to the contrary stated above in this Section, in the event any condition is satisfied or waived by Buyer and thereafter new circumstances arise or information not previously known, available or disclosed is discovered or disclosed prior to closing which if it were known prior to Buyer's giving notice to Seller of its satisfaction or waiver of any condition set forth herein, Buyer would not have waived or satisfied such condition, it is agreed that the period for Buyer's satisfaction or waiver of such condition shall re-open and such period shall then extend until closing. In the event such circumstances arise or information is discovered, Buyer agrees to promptly notify Seller of the existence of such matters. Furthermore, notwithstanding anything to the contrary stated above, Buyer, in its sole discretion, may elect to waive any of its conditions set forth above and proceed to close its purchase of the Property.

8. **Escrow Agent and Closing.** The parties shall deliver an executed copy of this Agreement to the Title Company, which shall act as the Escrow Agent for this transaction. This Agreement, including the escrow instructions contained herein, will constitute the instructions for the Escrow Agent's handling of the purchase and sale transaction contemplated herein. Seller and Buyer will execute such supplemental escrow instructions as may reasonably be required by Escrow Agent to enable Escrow Agent to comply with the terms of this Agreement. If any conflict exists between this Agreement and the provisions of any supplemental escrow instructions, the terms of this Agreement will control unless a contrary intent is expressly indicated in the supplemental instructions and such supplemental instructions are signed by both Buyer and Seller.

(a) Closing shall occur no later than thirty (30) days after Buyer notifies Seller that it has either satisfied or waived all of its conditions set forth in Section 6 above, but in no event later May 15, 2022.

(b) On or before the closing date, Buyer shall deliver the following items to the Escrow Agent:

i. The balance of the Purchase Price together with Buyer's share of the closing costs in cash or by means of wire transfer or certified check with the Escrow Holder with instructions to disburse the Purchase Price to Seller upon recordation of the Deed and the issuance of the Title Policy required by Section (f);

ii. Documents the Escrow Agent may request to evidence the status and capacity of Buyer and the authority of the person executing documents on behalf of Buyer;

iii. Instructions to the Escrow Agent sufficient to enable it to perform the functions herein contemplated;

iv. A settlement statement showing all closing amounts; and

v. Other documents the Escrow Agent and/or Seller may reasonably require to close the transaction and to effect the agreement herein made.

(c) On or before the closing date, Seller shall deliver the following items to the Escrow Agent:

i. A duly executed and acknowledged Special Warranty Deed ("**Deed**") conveying the Property and all of Seller's right, title and interest in and to all streets, alleys and rights-of-way adjacent thereto to Buyer or Buyer's designee, or portions to Buyer's designees, subject only to the Permitted Exceptions. Said Deed is attached hereto and incorporated herein by reference as **Exhibit C**;

ii. An affidavit of non-foreign status pursuant to Section 1445 of the Internal Revenue Code ("**Code**");

iii. Documents the Escrow Agent may request to evidence the status and capacity of Seller and the authority of the person executing documents on behalf of Seller;

iv. Instructions to the Escrow Agent sufficient to enable it to perform the functions herein contemplated;

v. An owner's affidavit in a form reasonably acceptable to the Escrow Agent;

- vi. An IRS Form 1099-s Real Estate Reporting Form;
- vii. A settlement statement showing all closing amounts; and
- viii. Other documents the Escrow Agent and/or Buyer may reasonably require to close the transaction and to effect the agreement herein made.

(d) Seller shall instruct the Escrow Agent to record the Deed when the Escrow Agent is in a position to disburse the entire Purchase Price to Seller. Buyer shall instruct Escrow Agent to disburse the entire Purchase Price to Seller upon recordation of the Deed and when the Title Company is in a position to issue the Title Policy required by this Agreement.

(e) Notwithstanding anything in this Agreement to the contrary, in the event that the status of any conditions set forth in Section 6 above are materially different at any time after the end of the Feasibility Period or any extension of the Feasibility Period, or any extension of the closing but prior to the actual date of closing than the status of the condition as satisfied or waived by Buyer at the end of the Feasibility Period or any extension of the Feasibility Period or any extension of the closing, Buyer may elect to terminate this Agreement and both parties hereto shall be released from any further obligations hereunder except for liabilities, actual or contingent, which arose prior to the date of termination.

9. **Costs.** At Closing, Seller will pay (a) the insurance premium amount for a standard coverage owner's policy of title insurance in the amount of the Purchase Price; (b) the costs of releasing any financing liens or other encumbrances that are required to be released by Seller and of recording such releases; (c) one-half of the fees and costs due Escrow Agent for its sale escrow services under this Agreement; and (d) all other costs this Agreement expressly requires Seller to pay. At Closing, Buyer will pay (i) all title insurance costs and charges (other than the insurance premium amount paid by Seller for a standard coverage owner's policy of title insurance in the amount of the Purchase Price), including any costs for extended coverage, title endorsements, lender policies or other coverage requested by Buyer; (ii) the cost of any new or updated Survey obtained by Buyer; (iii) the cost of recording the Deed and any other Closing Documents; (iv) one-half of the fees and costs due Escrow Agent for its sale escrow services under this Agreement; and (v) all other costs this Agreement expressly requires Buyer to pay. Except as otherwise expressly provided for in this Agreement, Seller and Buyer will each be solely responsible for and bear all of their own respective transaction costs and expenses, including without limitation all expenses of legal counsel, accountants, and other advisors and consultants incurred at any time in connection with pursuing or consummating the transaction contemplated herein. Any other closing costs and charges not specifically designated as the responsibility of either Party in this Agreement will be paid by the Parties according to the usual and customary allocation/apportionment of such costs by Escrow Agent in the jurisdiction in which the Property is located, including without limitation any state, county or local documentary, franchise or transfer taxes. Buyer and Seller agree that there is no Personal Property included within the Property and no portion of the Purchase Price will be allocated or attributable to Personal Property. Taxes, rentals and utilities, if any, shall be prorated as of the

date of closing. For the purposes of prorations, Buyer shall be deemed to have owned the Property for the entire closing date.

10. **Commissions.** Seller and Buyer hereby acknowledge, represent and warrant to each other that no broker or finder has been employed by either Seller or Buyer in connection with the sale and purchase transaction contemplated in this Agreement. Seller and Buyer each warrant to the other that no commissions are payable by Seller or Buyer to any other broker or finder in connection with this Agreement or the transaction contemplated herein, and Seller agrees to indemnify, defend, save and hold Buyer harmless from and against the payment of any further commissions or fees or claims for commissions or fees by virtue of any acts or actions undertaken by them, respectively; it being expressly agreed that the foregoing agreement of indemnification shall expressly survive the closing under this Agreement.

11. **Seller's Representations and Warranties.** Subject to the information disclosed by the Diligence Materials, Title Commitment, and Survey, Seller makes the following representations and warranties to Buyer as of the Effective Date and (except as may be disclosed in writing to Buyer after the Effective Date) again as of the Closing Date:

(a) Seller is duly organized and validly existing and in good standing under the laws of its state of formation; and the execution, delivery and performance of this Agreement and all Closing Documents to be executed and delivered by Seller pursuant to this Agreement are within the organizational power of Seller and have been or will prior to Closing be duly authorized.

(b) Seller has not filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by Seller's creditors or suffered the appointment of a receiver to take possession of the Property.

(c) There are no actions or proceedings pending or, to Seller's knowledge, threatened against Seller that Seller reasonably expects would affect the validity or enforceability of this Agreement or any of the Closing Documents to be executed and delivered by Seller pursuant to this Agreement.

(d) To Seller's knowledge, there are no leases, license agreements or occupying agreements (or any amendments or supplements thereto) to which Seller is a party that will bind or encumber the Property following Closing.

(e) Seller has not received written notice of any currently pending or threatened Condemnation of all or any portion of the Property.

(f) Seller has not received written notice of any litigation that is currently pending or threatened against Seller with respect to the Property.

(g) Except as may be set forth in any document recorded against the Property, Seller has not granted any option or right of first refusal to any party to acquire Seller's ownership interest in any portion of the Property.

(h) Seller has not received any written notice from any Governmental Authority with jurisdiction regarding any pending or threatened claims, complaints or requests for information with respect to any violation or alleged violation of Hazardous Materials laws at the Property. To Seller's knowledge, except as may be disclosed in any Diligence Materials Seller may deliver to Buyer, no portion of the Property contains any Hazardous Materials which may require any cleanup, remediation or other corrective action pursuant to the applicable laws, rules, or regulations of any Governmental Authority. Seller has not and, to the best of Seller's knowledge, except as may be disclosed in any Diligence Materials Seller may deliver to Buyer, no other person or entity has, used any portion of the Property, nor permitted any other person or entity to use the Property for the purpose of storage, generation, manufacture, disposal, transportation or treatment of any Hazardous Materials in violation of applicable laws, rules, and regulations. Seller has not installed any underground storage tanks on the Property.

(i) Seller has not received any written notice from any person, authority, or agency having jurisdiction over the Property or Seller with regard to the violation in any material respect of any applicable law, regulation, code, ordinance, requirement, covenant, condition, or restriction relating to the Property or the present use or occupancy of the Property.

(j) There are no unrecorded commitments or agreements to which Seller is a party that would require Buyer to pay any money or perform any obligation or that would otherwise affect Buyer's ownership and use of the Property, other than any commitments or agreements contained in any Diligence Materials Seller may deliver to Buyer.

(k) Seller has not received written notice of any latent defects relating to the physical condition of the Property.

For purposes of this Agreement and any Closing Documents, whenever the phrases "to the best of Seller's knowledge", or the "knowledge" of Seller or words of similar import are used, they shall be deemed to refer to the current, actual, conscious knowledge only, and not any implied, imputed or constructive knowledge, without any independent investigation having been made or any implied duty to investigate, of Gordon C. Root. Such individual will have no personal liability under this Agreement or otherwise with respect to the Property.

The representations and warranties set forth in this Section 11 shall constitute continuing representations and warranties and shall be deemed to be true and correct as of the date of closing of Buyer's purchase of the Property and are subject to Section 25, below. Seller agrees to indemnify, defend and hold harmless Buyer from and against any and all liabilities, claims, suits, judgments, damages, expenses, losses, diminution in value, fees, penalties, fines and costs (including, without limitation, reasonable attorneys' fees and reasonable attorneys' fees on any appeal), judgments, proceedings and causes of action of any kind whatsoever, arising out of or in

any way connected with Seller's breach of the representations and warranties set forth in this Section 11.

12. **Buyer's Representations and Warranties.** Buyer represents and warrants on the Effective Date and the date of closing as follows:

(a) Buyer has been duly organized, is validly existing and is in good standing in the State of Idaho. It has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Buyer at closing will be, authorized and executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Buyer, enforceable in accordance with their terms.

(b) Performance under this Agreement will not result in any breach of, or constitute any default under, any agreement or other instrument to which Buyer is a party, or by which Buyer might be bound.

13. **Insurance.** Seller will continue to maintain all insurance in place as of the Effective Date through the closing, at which time Seller shall terminate such insurance. Insurance, if any, carried by Seller on the Property shall be terminated effective as of closing.

14. **Successors.** Subject to Section 29, below, this Agreement shall be binding on the heirs, beneficiaries, successors, assigns and personal representatives of the parties hereto.

15. **Attorneys' Fees.** In the event either party initiates or defends any legal action or proceeding in any way connected with this Agreement, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action its costs and reasonable attorneys' fees (including, without limitation, its costs and reasonable attorneys' fees on any appeal). All such costs and reasonable attorneys' fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

16. **Default.**

(a) Neither party shall be deemed to be in default of this Agreement except upon the expiration of fifteen (15) days from receipt of written notice from the other party specifying the particulars in which such party has failed to perform its obligations (or breached any of its representations or warranties) under this Agreement unless such party, prior to expiration of such fifteen (15) day period has rectified the particulars specified in the notice of default. Notwithstanding anything to the contrary stated above, a party shall be deemed to be in default of this Agreement if such party fails to pay money as required herein within five (5) days of the payment due date without any notice or demand being made.

(b) In the event Buyer defaults in the performance of any of its obligations set forth in this Agreement, the parties agree that the Earnest Money Deposit and all extension payments paid by Buyer (including all interest accrued thereon) shall be paid to Seller as liquidated damages. EXCEPT FOR THE OBLIGATIONS OF INDEMNITY, DEFENSE AND HOLD HARMLESS PROVIDED IN SECTION 2 OF THIS AGREEMENT, THE AMOUNT PAID TO AND RETAINED BY SELLER AS LIQUIDATED DAMAGES SHALL BE SELLER'S SOLE REMEDY IN THE EVENT OF BUYER'S DEFAULT UNDER THIS AGREEMENT INCLUDING BUYER'S FAILURE TO CLOSE ITS PURCHASE OF THE PROPERTY. THE PARTIES HEREBY EXPRESSLY AGREE AND ACKNOWLEDGE THAT SELLER'S ACTUAL DAMAGES IN THE EVENT OF A DEFAULT BY BUYER WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO ASCERTAIN AND THAT THE AMOUNT OF THE EARNEST MONEY DEPOSIT AND ALL EXTENSION PAYMENTS, PLUS ANY INTEREST ACCRUED THEREON REPRESENTS THE PARTIES' REASONABLE ESTIMATE OF SUCH DAMAGES.

(c) In the event Seller defaults in the performance of any of its obligations set forth in this Agreement, Buyer may either (i) terminate this Agreement upon written notice to Seller, obtain a refund of all amounts paid hereunder, including all accrued interest, and recover from Seller all of its out-of-pocket expenses incurred by Buyer in connection with its efforts to acquire the Property, including, but not limited to, attorneys' fees, and consultants' fees, or (ii) institute an action for specific performance of this Agreement against Seller.

17. **Notices.** All notices and other communications ("notices") shall be in writing and may be delivered (i) in person, with the date of notice being the date of personal delivery, (ii) by United States Mail, postage prepaid for certified or registered mail, return receipt requested, with the date of notice being the date of the postmark on the return receipt, (iii) by e-mail, with confirmation of the transmittal of the e-mail, with the date of notice being the date of the e-mail, (iv) by nationally recognized delivery service such as Federal Express, with the date of notice being the date of delivery as shown on the confirmation provided by the delivery service. Notices shall be addressed to the following addresses, or such other address as one party shall provide the other parties:

Seller: STAFFORD HOLDINGS, LLC
Attn: Gordon Root
1111 E. Lancaster Road
Hayden, Idaho 83835
E-mail: gordon@staffordlandcompany.com

With a copy to: STAFFORD HOLDINGS, LLC
Attn: Bryan Cavaness
8840 SW Holly Lane
Wilsonville, OR 97070
E-Mail: bryan@staffordlandcompany.com

Buyer: CITY OF HAYDEN
Attn: Brett Boyer, City Administrator
8930 N. Government Way
Hayden, Idaho 83835
E-mail: bboyer@cityofhaydenid.us

With a copy to: Fonda L. Jovick
Lake City Law Group, PLLC
435 W. Hanley Avenue
Coeur d'Alene, Idaho 83815
E-mail: fjovick@LCLattorneys.com

18. **Captions and Headings.** The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

19. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereto. The provisions of this agreement shall be construed as a whole and not strictly for or against any party, and may not be modified or amended in any manner except by an instrument in writing signed by both Buyer and Seller.

20. **Construction.** In construing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

21. **Joint and Several Obligations.** In the event any party hereto is composed of more than one person, the obligations of such party shall be joint and several.

22. **Counterparts; E-mail Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Each counterpart shall be deemed an original for all purposes. E-mail transmission of any signed original document and/or retransmission of any signed e-mail transmission shall be the same as delivery of any original.

23. **Time Period Computation.** All time periods in this Agreement shall be deemed to refer to calendar days unless the time period specifically references business days; provided that if the last date on which to perform any act or give any notice under this Agreement shall fall on a Saturday, Sunday or local, state or national holiday, such act or notice shall be deemed timely if performed or given on the next succeeding business day.

24. **Binding Agreement.** This Agreement shall not be binding or enforceable until both parties have fully executed this Agreement and have delivered to each other an original counterpart of this Agreement fully executed by the delivering party.

25. **Survival.** All of Seller's representations and warranties set forth in this Agreement shall constitute continuing representations and warranties, shall be deemed to be true and correct as of the date of closing of Buyer's purchase of the Property from Seller, and shall (along with all indemnification, defense and hold harmless obligations related thereto) survive the closing of Buyer's purchase of the Property from Seller, and shall not be subject to any merger due to delivery and/or recording of the Deed.

26. **Governing Law.** This Agreement shall be governed by the law of the state of Idaho. Any proceeding arising out of or in connection with this Agreement will be determined solely by a state or federal court located in Kootenai County, Idaho, and the parties consent to the jurisdiction and venue of those courts.

27. **No Third Party Beneficiary Rights.** This Agreement is not intended to create, nor shall it in any way be interpreted or construed to create, any third party beneficiary rights in any person not a party hereto unless otherwise expressly provided herein.

28. **Further Assurances.** From and after closing, upon the reasonable written request of either party, Buyer and Seller shall execute, acknowledge and deliver all such further acts, deeds, assignments, transfers, conveyances and assurances as may be required to further evidence and confirm the transactions provided for in this Agreement, or as otherwise may be required or appropriate to carry out the transactions contemplated hereby.

29. **Assignment.** Buyer shall have the right to assign this Agreement without Seller's prior written consent to an entity owned by Buyer or controlled by Buyer. Notice of such assignment prior to closing shall be delivered by Buyer to Seller, and Seller shall thereafter convey title pursuant to the Deed to Buyer's assignee identified in the notice.

30. **Time of the Essence.** Time is of the essence of this Agreement.

EXECUTED as of the date first above written.

Seller:

STAFFORD HOLDINGS, LLC

By: _____
Gordon C. Root

Its: Manager

Buyer:

CITY OF HAYDEN, IDAHO

By: _____
Steven J. Griffitts, Mayor

ATTEST

By: _____
Abbi Sanchez, City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

That portion of the South 1/2 of Tract 158 of Hayden Lake Irrigated Tracts, according to the Plat thereof recorded in Book C of Plats, Pages 66 and 67, records of Kootenai County, Idaho, being situated in the SE 1/4 of Section 15, Township 51 North, Range 4 West, Boise Meridian, City of Hayden, Kootenai County, Idaho, being more particularly described as follows:

COMMENCING at the northwest corner of said South 1/2 of Tract 158, thence South 88°18'06" East along the north line of said South 1/2 of Tract 158, 626.57 feet, more or less, to the west right-of-way line of Ramsey Road, said point being the **POINT OF BEGINNING**;

thence South 01°11'44" West, along said west right-of-way line, 125.00 feet;

thence North 88°18'06" West, parallel with said north line of the South 1/2 of Tract 158, 220.00 feet;

thence North 01°11'44" East, parallel with said west right-of-way line of Ramsey Road, 125.00 feet, more or less, to said north line of the South 1/2 of Tract 158;

thence South 88°18'06" East, along said north line, 220.00 feet, more or less, to the **POINT OF BEGINNING**.

EXHIBIT C

SPECIAL WARRANTY DEED

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, STAFFORD HOLDINGS, LLC, an Idaho limited liability company ("**Grantor**") does hereby grant, bargain, sell and convey unto the CITY OF HAYDEN, a municipal corporation organized pursuant to the laws of the State of Idaho, whose address is 8930 N. Government Way, Hayden, Idaho 83835 ("**Grantee**"), all of Grantor's right, title and interest in and to a portion of the real property located in Kootenai County, Idaho, legally described as follows:

That portion of the South 1/2 of Tract 158 of Hayden Lake Irrigated Tracts, according to the Plat thereof recorded in Book C of Plats, Pages 66 and 67, records of Kootenai County, Idaho, being situated in the SE 1/4 of Section 15, Township 51 North, Range 4 West, Boise Meridian, City of Hayden, Kootenai County, Idaho, being more particularly described as follows:

COMMENCING at the northwest corner of said South 1/2 of Tract 158, thence South 88°18'06" East along the north line of said South 1/2 of Tract 158, 626.57 feet, more or less, to the west right-of-way line of Ramsey Road, said point being the **POINT OF BEGINNING**;

thence South 01°11'44" West, along said west right-of-way line, 125.00 feet;

thence North 88°18'06" West, parallel with said north line of the South 1/2 of Tract 158, 220.00 feet;

thence North 01°11'44" East, parallel with said west right-of-way line of Ramsey Road, 125.00 feet, more or less, to said north line of the South 1/2 of Tract 158;

thence South 88°18'06" East, along said north line, 220.00 feet, more or less, to the **POINT OF BEGINNING**.

TOGETHER WITH all improvements, water, ditches, ditch rights, easements, hereditaments and appurtenances thereto, if any.

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TO HAVE AND TO HOLD, the said premises, and their appurtenances unto said Grantee and to the Grantee's heirs and assigns forever. Grantor, for themselves and their heirs and assigns, does hereby covenant to and with the said Grantee, its successors and assigns, that (1) the Grantor is the owner in fee simple of said premises; (2) Grantor has the right to convey the premises; and (3) except for Permitted Exceptions, the premises are free from all liens and encumbrances.

IN WITNESS WHEREOF, Grantor has hereunto set their hands this ____ day of _____, 2022.

GRANTOR:

STAFFORD HOLDINGS, LLC

By: _____
Gordon C. Root

Its: Manager

ACCEPTANCE:

CITY OF HAYDEN, IDAHO

By: _____
Steven J. Griffitts, Mayor

Date: _____

ATTEST:

Abbi Sanchez, City Clerk

STATE OF IDAHO)
)
County of Kootenai)

ss.

On this ____ day of _____, 2022, before me, a Notary Public in and for said State, personally appeared _____ the _____ of Stafford Holdings, LLC, known or identified to me to be person whose name is subscribed to the foregoing instrument, and acknowledged to me that they executed the same on behalf of Stafford Holdings, LLC.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for Idaho
Residing at _____
My commission expires _____