

**ARCHCAPEDOMESTICWATERSUPPLY
DISTRICT BOARD OF COMMISSIONERS MEETING
SPECIAL MEETING ~~DRAFT~~ MINUTES
March 31, 2022**

Call to Order by Dan Seifer, President at 6:00 pm

Present: Water Board: Debra Birkby, Vice President; Linda Murray, Nadia Gardner, Jay Blake, Staff: Phil Chick, District Manager, Teri Fladstol, Secretary; Public: John Mersereau, Deborah Burton, Bob Cerelli, Nicole Bales, Daily Astorian; Julie Fonseca de Borjes– National Parks Service, Anne Dove – National Parks Service, Eeva Lantela, Phone #425-274-5864,

Public Comments: None Made

Motion to approve agenda – Moved by Jay Blake, 2nd by Linda Murray – All in Favor, Motion Carried

Old Business:

First Amendment – This amendment confirms in writing that both parties have reviewed and approved the appraisal and sets the appraisal as the purchase price as long as the closing date is July 31, 2022. Beyond that date, the property owner has asked for an escalation clause because the effective date of the appraisal [July of 2021]; beyond December 31, 2022, a new appraisal would be required. The third thing it does is to include some language the Forest Legacy grant asked us to include in a document and finally, it permits the assignment of the property ownership from one entity to another without any change in the terms of the purchase and sale agreement. Any questions about the agreement? Nadia moved to authorize the first amendment, Debra Birkby 2nd; Discussion: Jay Blake – has there been any significant movement on the grant funding? Yes, it is next on the agenda item; Nadia & Dan extended thanks for all of those who have volunteered on a pro-bonus basis to assist with this. All in Favor, Motion Carried will be executed by Dan or Phil.

Phil Chick update on ARPA Funding – progress update, very, very close to getting this contract in place by April 10th. New project manager, Heather Stevens will be taking on this project and administering the grant. On Tuesday she checked, and the contract came back from DOJ as being legally sufficient. Have a meeting scheduled on April 12th with Business Oregon, Amy Singh, Allie Swallow, Greg Fullem and Bailey Oswald, Dan, Ben, and myself – if all works out meeting our deadline will be doable. Questions? Do we have a draft of the contract yet? No. Regarding the contract, it includes pre-acquisition planning so we will need to see the details. Project Manager and Consulting Forester as soon as the grant is received; timing with April 12th meeting and the relationship to buying the forest do we want to have Phil issue those contracts or do we want to wait until our April board meeting to establish that?

Debra would like for the Board to meet on the 12th to vote if needed; Phil clarified that the meeting is just to get the funding agencies together to verify timelines so we can meet closing date and is primarily to get the sequence of events in place; the April 21st Board meeting will be when we discuss the details and the possibility of the Board being able to meet to sign that contract when it comes in or call a Special Meeting (April 11th) or later in the day on April 12th to address the contract and approval by the Board. The grant will dictate the contract and stipulations on what those requirements are so we can address that when we understand what is required to be done. The Board will not move, or action taken until the regularly scheduled Board meeting on April 21st.

Outreach Committee – Chris Anderson and Ben Dair put together all the questions/answers that were asked at the Town Hall, it is being printed and will be ready to go in the mail this week; Heather and Debra are working to get the labels and stamps on the envelopes to get the mailing out. Thank you from Dan to all those who worked on that project.

Any Budget Committee appointments or applications received? No

Board Comments:

Jay Blake – thank you for the special meeting to help get us to this point and helped to put my mind at ease.

Nadia Gardner – thank you everyone. Just a note that we all heard loud and clear the questions and concerns at the Town Hall and we are doing the best we can to get the information out to our community and receive input. We would like to be free to move forward and the only way we can do that is if people donate to the Arch Cape Forest and this is a great time to do it. The unfortunate consequence of some things that have been discussed recently is there is a lot of anger and vitriol among the community which is counter-intuitive in what we are trying to do. We are trying to rally the troops, rally our community in support of this amazing thing that we have been working on since 2016 for the health of our community and our forest. I just ask that everyone receive the responses we worked so hard for and listen; please reach out to us and we can answer them to the best of our abilities, and you can feel good about what we have been doing – it is truly amazing! We hope we can get to a place where everyone feels this is “awesome and amazing,” and will support it and is willing to speak up on its behalf and donate to the best of their ability. The more money we raise now, the less risk we have as a community and the less trees we have to cut for revenue and if that is really your interest, I want to see the money coming in – I would love to see you put your money where your mouth is. Thank you.

Linda Murray – Yes, true! Thank you, Nadia.

Debra Birkby – It has been tough to work through the angst in the Community and people mad because we did not reach out to them. I happened to lick a lot of envelopes and stamps to mail information to all of our Water District users. Yes, we have done the best we can over 7 years going over this project and if we are slowed down in closing, it will cost us \$100,000 and if there's a really big concern about the lack of funds in \$300,000 in 25 years from now, a \$100,000 penalty would be a stupid thing to allow ourselves to get involved in, thereby wasting \$400,000 dollars we would be short. I encourage Phil and Dan to continue all the leg work and let us get this to the end.

Dan Seifer – Whenever I feel unfairly criticized to the acquisition of the Forest and words like vitriol and angst come to mind, I think about what I see on TV every night and I am pushing eighty and never thought I would be seeing a real war in Europe. It puts our difficulties into a bit of context and what I wanted to say is it would facilitate our transparency to the Community if we tried to have our April Board Meeting in person at the Fire Station and accommodate those who would rather be in person and those via hybrid. Debra would like to see that; Budget meeting that night as well, so we start at 4 pm. Any reaction to that? Let us put that together for the meetings (Budget and Board of Directors)

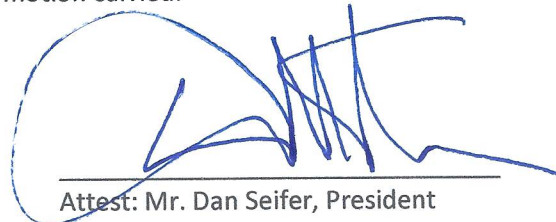
Public Comment –

John Mersereau – again thank you to Board and Plant Manager for having the vision; congratulations for the vision for how important this project is to the community way down the road, hat's off to you.

Motion to adjourn – Linda Murray, Nadia 2nd – all in favor – motion carried.

Respectfully Submitted,

Teri Fladstol



Attest: Mr. Dan Seifer, President

**FIRST AMENDMENT TO TIMBERLANDS OPTION AND PURCHASE AND SALE
AGREEMENT
(Arch Cape Watershed)**

This First Amendment to Timberlands Option and Purchase and Sale Agreement (the "**Amendment**"), is entered into effective as of March 31, 2022 (the "**Effective Date**"), by and between Arch Cape Domestic Water Supply District, an Oregon special district ("**Optionee**"), and Onion Peak, LLC, an Oregon limited liability company ("**Optionor**"). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement (defined below).

RECITALS:

- A. Pursuant to that certain Timberlands Option and Purchase and Sale Agreement dated effective as of May 29, 2020, by and between Optionor and Optionee (the "**Agreement**"), Optionor granted to Optionee an Option to buy the Real Property located in Clatsop County, Oregon, as more particularly described in Exhibit "A" of the Agreement.
- B. The parties desire to amend the Agreement by (i) approving the Appraisal and agreeing upon the final Purchase Price for the Real Property, (ii) establishing a target Closing Date for 2022, and (iii) allowing Optionor to assign its rights and obligations under the Agreement to its sole member, as more particularly set forth below.

AGREEMENT:

Now, therefore, in consideration of the mutual promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** The above recitals are incorporated herein by reference.
2. **Appraisal & Purchase Price.** Optionor and Optionee hereby agree (a) that the Appraisal Report dated November 26, 2021, prepared by Zachary M. Dewees, CF at Mason, Bruce & Girard, Inc. for the Real Property, shall be the Appraisal (as defined in Section 1.6 of the Agreement) under the Agreement, and (b) that the Purchase Price for the Real Property, as concluded by the Appraisal in accordance with Section 1.6 and Section 1.7 of the Agreement, shall be Four Million Six Hundred Ninety Thousand and No/100 Dollars (\$4,690,000.00), except as adjusted pursuant to Section 3 below.
3. **Target Closing Date.** Notwithstanding the terms of Section 5.1 of the Agreement or any other term or provision contained in the Agreement regarding the timing of Closing, if Optionee exercises the Option by way of delivery to Optionor of an Exercise Notice pursuant to Section 1.4 of the Agreement by June 10, 2022, Optionor and Optionee shall make best efforts to consummate the Closing on or before June 30, 2022 (the "**Target Closing Date**"). If Optionee timely delivers an Exercise Notice as contemplated in the foregoing sentence, and for any reason the Target Closing Date must be extended beyond June 30, 2022 to reasonably accommodate Optionee's grant funders and the time frames that they may respectively need in order to deliver to Optionee all of the funds necessary

to fund the Purchase Price, Optionor and Optionee agree to reasonably extend the Target Closing Date by written amendment to the Agreement, so long as such extended Target Closing Date is no later than December 31, 2022 (the "2022 Final Closing Date"). Notwithstanding anything to the contrary in the Agreement or this Amendment, for each month or portion thereof that the Target Closing Date is extended beyond July 31, 2022, the Purchase Price shall increase as follows: (a) if the Target Closing Date is extended into August, 2022, the Purchase Price shall increase by two percent (2%); and (ii) if the Target Closing Date is extended into any subsequent month in 2022, then the Purchase Price shall increase by one percent (1%) per month. If the Closing does not occur by the 2022 Final Closing Date, a new Appraisal would be required in order to support a Closing that may occur on or before the Termination Date set forth in Section 5.1 of the Agreement.

4. **Forest Legacy Program Disclaimer.** At the request of ODF, which administers the federal FLP, the parties hereto agree that the FLP is a voluntary program, based on willing buyer and willing seller conditions, and eminent domain cannot be used if negotiations between the parties do not result in an amicable agreement.
5. **Assignment.** The parties agree that, prior to Closing, Optionor may assign its rights and obligations under the Agreement to Optionor's sole member, Ecotrust Forests II, LLC, an Oregon limited liability company ("**Assignee**"), so long as (a) Assignee assumes Optionor's rights and obligations under the Agreement and Optionor remains liable and responsible for any duties and obligations to Optionee arising under the Agreement (unless Optionee otherwise agrees in writing), and (b) Optionor provides Optionee with written notice of such assignment. Contemporaneously with such assignment, Optionor will convey the Real Property to Assignee, subject at all times to the terms of the Agreement, as amended by this Amendment.
6. **Full Force and Effect.** This Amendment modifies and amends the Agreement. In the event of any inconsistency between the Agreement and this Amendment, this Amendment shall prevail. Except as expressly modified and amended by this Amendment, the Agreement is and shall remain in full force and effect according to its terms.
7. **Counterparts; Email Signatures.** This Amendment may be executed simultaneously or in counterparts, each of which shall be deemed an original, but all of which together shall be one and the same instrument. Email transmission of a signed original document shall be the same as delivery of an original. At the request of either party, the parties shall confirm email transmitted signatures by signing an original document.

[Signatures contained on following page]

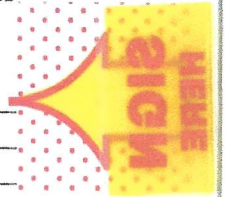
The parties hereto have entered into this Amendment effective as of the Effective Date.

OPTIONOR:

ONION PEAK, LLC, an Oregon limited liability company

By: EFM Investments & Advisory, Inc., its Manager

By: Amrita
Name: AMRITA VK VATSAL
Title: MANAGING DIRECTOR



OPTIONEE:

ARCH CAPE DOMESTIC WATER SUPPLY DISTRICT, an Oregon special district

By: [Signature]
Name: Daniel J. Seifer
Title: President