

RESOLUTION NO. 2016-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, AUTHORIZING THE CITY MANAGER TO EXECUTE A REAL ESTATE PURCHASE AND SALE AGREEMENT AND OTHER CLOSING DOCUMENTS FOR ACQUISITION OF PARK PROPERTY FOR SOCO PARK.

WHEREAS, the City of Covington has a desire to acquire certain properties for city parks in accordance with the city's Park, Recreation and Open Space Plan and Parks Capital Improvement Plan; and

WHEREAS, the Allmand property (King County parcel 3622059071) may be obtained voluntarily from the current owner; and

WHEREAS, the City Council has approved a resolution authorizing a Recreation and Conservation Office (RCO) grant application in 2014, approved the awarded RCO grant contract in 2015 and approved the remaining allocation of funds necessary to complete the purchase of property for park development as part of the 2016 city budget;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Covington, King County, Washington, that the City Manager is authorized to execute a real estate purchase and sale agreement attached hereto as Exhibit "A" and other closing documents for acquisition of the Allmand property (King County parcel 3622059071) for the purpose of creating SoCo Park.

ADOPTED in open and regular session on this 12th day of July, 2016, and signed in authentication thereof.



Mayor Jeff Wagner

ATTESTED:



Sharon Scott, City Clerk

APPROVED AS TO FORM ONLY:



Sara Springer, City Attorney

EXHIBIT A

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (“Agreement”) is dated as of June 27, 2016, and is made between The heirs at law of Okla T. Allmand, also appearing of title as Okla T. Allmond, deceased and the heirs and devisees of Lavelle W. Allmond, deceased (“Seller”), and the City of Covington, Washington, a municipal corporation of the State of Washington (“Buyer”), each a “Party” and collectively referred to as the “Parties”.

RECITALS

The following recitals are a part of this Agreement and are agreed to and accepted by the Parties:

- A. Seller is the current owner of certain real property identified as King County Parcel No. 362205-9071, located within the City of Covington, WA, more particularly described below.
- B. The Covington City Council authorized acquisition of the Property.
- C. Seller is willing to convey and Buyer is willing to acquire the Property. Title will be conveyed by recordation of a Statutory Warranty Deed (the “Deed”).

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Seller, subject to the following terms and conditions:

AGREEMENT

1. Property. Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

1.1 Land. That certain real property located in King, County, Washington, consisting of approximately 148,104 square feet of land and more particularly described on Exhibit A, attached hereto and by this reference incorporated herein (the "Land").

1.2 Appurtenances. All rights, privileges, and easements appurtenant to the Land including, without limitation, all minerals, oil, gas, and other hydrocarbon substances on and under the Land; all development rights, air rights, water, water rights, and water stock relating to the Land; and any and all easements, rights-of-way, and other appurtenances used in connection with the beneficial use and enjoyment of the Land (all of which are collectively referred to as the "Appurtenances").

1.3 Improvements. All improvements and fixtures located on and permanently affixed to the Land (all of which are hereinafter collectively referred to as the "Improvements").

All of the items described in in **Paragraph 1.1, 1.2, 1.3** above are hereunder collectively referred to as the "Property".

2. Purchase Price. The purchase price shall be One Million Dollars (\$1,000,000) (Purchase Price"). Buyer shall pay the Purchase Price to Seller at Closing in the reasonable and accustomed manner. Buyer represents that Buyer has sufficient funds to close this sale in accordance with this Agreement.

3. Escrow. Within five (5) days following the execution and delivery of this Agreement, Buyer will open escrow with First American Title Insurance Company, 818 Stewart Street, Suite 800, Seattle, WA 98101 (the "Escrow Agent"), by depositing with Escrow Agent a copy of this Agreement.

4. Closing.

4.1 Time and Place. The closing of this purchase and sale of the Property (the "Closing") shall take place at the offices of First American Title Company, 818 Stewart Street, Suite 800, Seattle, WA 98101 within forty-five (45) days of mutual acceptance of the Agreement (the "Closing Date") and as set forth in Paragraph 6 of this Agreement; provided, however, that the Parties may mutually agree to extend the Closing Date.

4.2 Documents. At Closing, Buyer shall deliver into escrow all funds and documents required from Buyer pursuant to this Agreement to complete the purchase of the Property. At Closing, Seller shall deliver a fully executed Statutory Warranty Deed, in a form acceptable to Buyer, and such other documents and funds as may be required to close this transaction.

4.3 Payment. The Purchase Price, subject to any necessary reimbursements and/or adjustments, shall be paid by the Buyer at Closing. Buyer shall not be required to make an earnest money deposit

4.4 Proration. All rents, real property taxes, interest, and other similar expenses associated with the Property shall be prorated as of the Closing Date, with Seller responsible for any such expenses relating to the period prior to and including the Closing Date and with Buyer responsible for any such expenses relating to the period after the Closing Date, regardless of when payment therefor is due. Escrow Agent is instructed to prepare a certification that Seller is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act ("FIRPTA"). Seller agrees to sign this certification. If Seller is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Escrow Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

4.5 Closing Costs. Buyer shall pay all escrow fees and other customary closing costs. Seller shall pay all taxes due, including but not limited to real estate excise tax and those included in **Paragraph 9.4** below.

5. Possession. Possession of the Property shall be delivered to Buyer at Closing.

6. Contingencies. In addition to all other contingencies noted in this Agreement, this offer is contingent upon the following:

6.1 Approvals. This Agreement is contingent upon approval of the City Council of the City of Covington.

6.2 Earnest Money. No earnest money deposit shall be paid.

7. Title. Title to the Property shall be conveyed to Buyer at Closing by Statutory Warranty Deed. Title to the Property shall be marketable and free of all encumbrances, defects or exceptions, except for: (a) rights, reservations, covenants, conditions, restrictions, easements, and encroachments that may presently be of record; (b) such exceptions as may be set forth in the preliminary commitment, title order number(s) NCS-645854-WA1 /Covington/Allmand (Commitment) issued by (Title Company) and previously obtained by Buyer, a copy of which is attached as Exhibit B; and (c) such other exceptions as may be approved by Buyer. Monetary encumbrances not assumed by Buyer shall be paid by Seller on or before Closing. Title to the Property shall be insured by a standard form owner's policy of title insurance issued by Title Company in the amount of the Purchase Price, insuring Buyer's interest in the Property. Buyer shall obtain said title insurance, and the title insurance premium shall be paid by Buyer at Closing.

8. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties, which representations and warranties shall be deemed made by Seller to Buyer also as of the Closing Date:

8.1 Title. Seller is the sole owner of the Property. At Closing, Buyer will acquire the entire fee simple estate and right, title, and interest in and to the Property, free and clear of all recorded or unrecorded liens, encumbrances, covenants, restrictions, reservations, easements, options, tenancies, leases, encroachments, claims, or other matters affecting title or possession of the Property, subject only to the permitted exceptions included in Paragraph 7 herein.

8.2 Compliance with Law. To the best of Seller's knowledge the Property complies in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules, and regulations of any governmental authority having jurisdiction over the Property (including those related to zoning, building, subdivision, and engineering). Seller has no knowledge of any facts that might give rise to any violation of the foregoing matters.

8.3 Bankruptcy, Etc. No bankruptcy, insolvency, rearrangement, or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, threatened by a third party, or contemplated by Seller.

8.4 Taxes and Assessments. Other than amounts disclosed by the Title Policy, to the best of Seller's knowledge no other property taxes have been or will be assessed against the Property for the current tax year, and there are no general or special assessments or charges that have been levied, assessed, or imposed on or against the Property.

8.5 Foreign Person. Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code.

8.6 Tax Returns. With regard to the Property, Seller has filed all local, state, and federal tax forms that are required to be filed by Seller, has paid all taxes due and payable by Seller to date, and will pay all such taxes that become due and payable by Seller prior to the Closing or Seller agrees to have all current and past due taxes and any assessed or owing penalties deducted from the Purchase Price at Closing.

8.7 Mechanics' Liens. No labor, material, or services have been furnished in, on, or about the Property or any part thereof as a result of which any mechanics', laborer's, or materialmen's liens or claims might arise.

8.8 Underground Storage Tanks. To the best of Seller's knowledge, there are no cisterns, wells, subterranean storage, or underground storage tanks on the Property and underground storage tanks have not been removed from the Property.

8.9 Assumption of Liabilities. Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Closing Date, other than such obligations so expressly assumed by Buyer pursuant to this Agreement or any liens or other obligations with respect to the Property which result from any action or activities by or on behalf of Buyer after the Closing Date. Seller, after the Closing Date, will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Property prior to the Closing Date and shall indemnify, defend, and hold Buyer harmless therefrom.

8.10 Defaults. Seller is not in default and there has occurred no uncured event which, with notice, the passage of time, or both, would be a default under any contract, agreement, lease, encumbrance, or instrument pertaining to the Property.

8.11 Litigation. There is no litigation or threatened litigation which could now or in the future in any way constitute a lien, claim, or obligation of any kind on the Property, affect the use, ownership, or operation of the Property, or otherwise adversely affect the Property. For purposes of this **Paragraph 8.11**, litigation includes lawsuits, actions, administrative proceedings, governmental investigations, and all other proceedings before any tribunal having jurisdiction over the Property.

8.12 Violation of Property Restrictions. To the best of Seller's knowledge, the Property and the current use, occupation, and condition thereof do not violate any applicable deed restrictions or other covenants, restrictions, or agreements (including, without limitation, any of the permitted exceptions pursuant to Paragraph 7 herein), site plan approvals, zoning, or urban redevelopment plans applicable to the Property.

8.13 Good Standing and Due Authority. Seller has all requisite power and authority to execute and deliver this Agreement and to carry out its obligation hereunder and the

transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitute the Seller's legal, valid, and binding obligation enforceable against Seller in accordance with its terms. The consummation by Seller of the sale of the Property is not in violation of or in conflict with, nor does it constitute a default under any term or provision of, any partnership agreement of Seller, or any of the terms of any agreement or instrument to which Seller is or may be bound, or of any provision of any applicable law, ordinance, rule, or regulation of any governmental authority or of any provision of any applicable order, judgment, or decree of any court, arbitrator, or governmental authority.

8.14 No Omissions. All representations and warranties made by Seller in this Agreement, and all information contained in any certificate furnished by Seller to Buyer in connection with this transaction, are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained herein or therein not misleading. The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and to the best of Seller's knowledge contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

9. Covenants of Seller. Seller covenants and agrees as follows:

9.1 Perform Obligations. From the date of this Agreement to the Closing Date, Seller will perform all of its monetary and non-monetary obligations under all indebtedness (whether for borrowed money or otherwise) and the liens securing same pertaining to the Property or any portion thereof, if any.

9.2 No Liens. From the date of this Agreement to the Closing Date, Seller will not allow any lien to attach to the Property, nor will Seller grant, create, or voluntarily allow the creating of, or amend, extend, modify, or change any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option, or other right affecting the Property or any part thereof without Buyer's written consent first having been obtained.

9.3 Provide Further Information. From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

9.4 Real Property Taxes. Seller shall pay at or prior to Closing the pro-rata share of real property taxes due or to become due with respect to the Property for the period up to the Closing Date. Seller shall pay in full any assessments due or to become due with respect to the Property prior to Closing, including all past due and owing taxes and penalties assessed against the Property. Seller is responsible for payment of all taxes due related to this transaction, including but not limited to Washington State real estate excise tax.

9.5 Monetary Liens. Seller shall pay or cause to be satisfied at or prior to Closing all monetary liens on or with respect to all or any portion of the Property including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable), and

financing statements. Seller shall be responsible for payment of any monetary encumbrances to be paid off at closing.

9.6 Possession. Possession of the Property shall be delivered to Buyer at Closing.

10. Environmental Compliance. Seller warrants, represents, covenants, and agrees:

10.1 Hazardous Substances. Seller has not used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, above, or about the Property (or off-site of the Property that might affect the Property), or transported to or from the Property any Hazardous Substance (as defined herein), or allowed any other person or entity to do so. Seller has no knowledge nor has Seller observed any questionable practice or conduct indicating that any Hazardous Substance has been used, generated, manufactured, produced, stored, released, discharged, or disposed of on, under, or above Property (or off-site of the Property that might affect the Property), or transported to or from the Property by any entity, firm, or person, or from any source whatsoever.

10.2 Pre-closing Covenant. Seller will not use, generate, manufacture, produce, store, release, discharge, or dispose of on, under, above, or about the Property (or off-site of the Property that might affect the Property), or transport to or from the Property any Hazardous Substance, or authorize any other person or entity to do so, prior to the closing.

10.3 Environmental Indemnity. Seller shall protect, indemnify, hold harmless, and defend Buyer and its employees, agents, parents, subsidiaries, contractors, consultants, successors, and assigns from and against any and all loss, damage, cost, expense, or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to a breach of any representation, warranty, covenant, or agreement contained in this **Paragraph 10** including, without limitation, (a) all consequential damages, and (b) the costs of any required or necessary repairs, cleanup, or detoxification of the Property and the preparation and implementation of any closure, remedial, or other required plans. This indemnity does not apply to actions of Buyer, its agents, or independent contractors.

10.4 Definitions. For the purposes of this Agreement, the term "Hazardous Substance" includes, without limitation, (a) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes" or "solid waste" in any Environmental Law; (b) petroleum products and petroleum byproducts; (c) polychlorinated biphenyls; and (d) chlorinated solvents. For the purposes of this Agreement, the term "Environmental Law" includes any federal, state, municipal, or local law, statute, ordinance, regulation, order, or rule pertaining to health, industrial hygiene, environmental conditions, or hazardous substances.

11. Indemnification. Seller shall pay, protect, defend, indemnify, and hold Buyer and its successors and assigns harmless from and against any and all loss, liability, damage, and expense suffered or incurred by reason of (a) the breach of any representation, warranty, or agreement of Seller set forth in this Agreement; (b) the failure of Seller to perform any obligation required by this Agreement to be performed by Seller; (c) the ownership, maintenance, and/or

operation of the Property by Seller prior to the Closing, not in conformance with this Agreement; or (d) any injuries to persons or property from any cause occasioned in whole or in part by any acts or omissions of the Seller, its representatives, employees, contractor, or suppliers that occurred before Closing. Seller shall defend any claim covered by this indemnity using counsel reasonably acceptable to Buyer.

12. Condemnation. In the event of any commenced, to be commenced, or consummated proceedings in eminent domain or condemnation conducted by an entity other than Buyer (collectively "Condemnation") respecting the Property or any portion thereof, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement pursuant to this Paragraph 12, neither Buyer nor Seller shall have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing Date, this Agreement shall continue in effect, there shall be no reduction in the Purchase Price, and Seller shall, prior to the Closing Date, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title, and interest in and to any condemnation award or settlement made or to be made in connection with such Condemnation proceeding. Buyer shall have the right at all times to participate in all negotiations and dealings with the condemning authority and approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

13. Notices. Unless applicable law requires a different method of giving notice, any and all notices, demands, or other communications required or desired to be given hereunder by any party (collectively, "notices") shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail (certified, registered, or express mail with postage prepaid). If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty-four (24) hours after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given seventy-two (72) hours after the deposit thereof in the United States mail. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Seller: Ralph Allmand
 1751 Bettas Road
 Cle Elum, WA
 98922

To Buyer: City of Covington
 Attention: City Clerk
 16720 SE 271st St., Suite 100
 Covington, WA
 98045

With copy to: Jeri J. Cranney
 Abaco Pacific, Inc.
 P.O. Box 1119
 North Bend, WA 98045

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

14. Event of Default. In the event of a default under this Agreement by Seller (including a breach of any representation, warranty, or covenant set forth herein), Buyer shall be entitled to seek monetary damages and specific performance of Seller's obligations hereunder, together with all and any remedies available at law and equity.

15. Miscellaneous.

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

15.2 Further Assurances. Each of the parties shall execute and deliver any and all additional papers, documents, and other assurances and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder to carry out the intent of the parties hereto.

15.3 Modification or Amendment, Waivers, Extension of Time. No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by all of the parties hereto. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

15.4 Successors and Assigns. All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns.

15.5 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings, or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The parties do not intend to confer any benefit under this Agreement to any person, firm, or corporation other than the parties.

15.6 Attorneys' Fees. In the event of default, the defaulting party agrees to pay the non-defaulting party all reasonable expenses which are incurred by reason thereof including, but not limited to, reasonable attorney's fees, whether with respect to the investigation of such default or the pursuit of remedies with respect thereto, or in legal proceedings, or otherwise, and all such expenses of the non-defaulting party. The term "legal proceedings" as

used in this paragraph shall include all litigation, arbitration, administrative, bankruptcy, and judicial proceedings, including appeals therefrom.

15.7 Construction. Captions are solely for the convenience of the parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. If the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

15.8 Partial Invalidity. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

15.9 Survival. The covenants, agreements, representations, and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

15.10 Commission, Finders' or Brokers' Fees. Buyer and Seller hereby certify that they have not used the services of any real estate broker or other entity or individual to whom a commission or fee shall be owed as a result of the Closing of this transaction.

15.11 Computation of Time. Unless otherwise specified in this Agreement, any period of time stated in this Agreement shall start on the day following the event commencing the period and expire at 6:00PM of the last calendar day of the specified time period, unless the last day of the time period is a Saturday, Sunday, or Legal Holiday as defined in RCW 1.16.050, in which case the specified period of time shall expire the next day that is not a Saturday, Sunday, or Legal Holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays, or Legal Holidays. Time is of the essence of every provision of this Agreement.

15.12 Force Majeure. Performance by Seller or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war; natural catastrophe; strikes, walkouts, or other labor industrial disturbance; order of any government, court, or regulatory body having jurisdiction; shortages, blockade, embargo, riot, civil disorder; or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

15.13 Counterparts. This Agreement may be executed in one or more counterparts.

This offer will expire if not executed by Seller on or before August 30, 2016.

SELLER:

The heirs at law of Okla T. Allmand, also appearing of title as Okla T. Allmond, deceased and the heirs and devisees of Lavelle W. Allmond, deceased

_____ Date _____

_____ Date _____

BUYER:

City of Covington, Washington, a municipal corporation of the State of Washington

Regan Bolli, City Manager _____ Date _____

Attested by: City Clerk

Approved as to form only:

Sara Springer, City Attorney

EXHIBIT 'A'

LEGAL DESCRIPTION:

THAT PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF COUNTY ROAD NO. 962, WHICH POINT IS 853.4 FEET SOUTHWESTERLY FROM THE INTERSECTION OF SAID CENTER LINE WITH THE EAST AND WEST CENTER LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 36;

THENCE SOUTHEASTERLY AT RIGHT ANGLES TO SAID ROAD CENTER LINE 400 FEET;

THENCE SOUTHWESTERLY PARALLEL WITH SAID ROAD CENTER LINE 400 FEET;

THENCE NORTHWESTERLY AT RIGHT ANGLES TO SAID ROAD CENTER LINE 400 FEET;

THENCE NORTHEASTERLY ALONG SAID ROAD CENTER LINE 400 FEET TO THE POINT OF BEGINNING;

EXCEPT COUNTY ROAD NO. 962.

EXHIBIT 'B'

TITLE COMMITMENT

First American Title Insurance Company (NCS-645854-WA1)



COMMITMENT FOR TITLE INSURANCE

Issued by

FIRST AMERICAN TITLE INSURANCE COMPANY

First American Title Insurance Company, herein called the Company, for valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagor of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of the Commitment or by subsequent endorsement.

This Commitment if preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six (6) months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company. This Commitment shall not be valid or binding until countersigned by an authorized officer or agent.

IN WITNESS WHEREOF, the Company has caused this commitment to be signed and sealed, to become valid when countersigned by an authorized officer or agent of the Company, all in accordance with its By-Laws. This Commitment is effective as of the date shown in Schedule A as "Effective Date."



First American Title Insurance Company

By: *Gary L. Keruett* President

Attest: *Mark R. Anderson* Secretary

By: *Joseph T. Pen* Countersigned



**First American Title Insurance Company
National Commercial Services**

818 Stewart Street, Suite 800, Seattle, WA 98101
(206)728-0400 - (800)526-7544 FAX (206)448-6348

Laura Lau
(206)615-3017
llau@firstam.com

Moniqueje Schmitt-Johnson
(206)615-3141
mschmittjohnson@firstam.com

To: **Abaco Pacific, Inc.**
Po Box 1119
North Bend , WA 98045

File No.: **NCS-645854-WA1**
Your Ref No.: **362205-9071**

Attn: **Jeri Cranney**

**4th REPORT
SCHEDULE A**

1. Commitment Date: June 01, 2016 at 7:30 A.M.

2. Policy or Policies to be issued:

	AMOUNT	PREMIUM	TAX
ALTA Extended Owner Policy	\$ 900,000.00	\$ To follow	\$

Proposed Insured:
City of Covington, a municipal corporation

3. The estate or interest in the land described on Page 2 herein is **Fee Simple**, and title thereto is at the effective date hereof vested in:

The heirs at law of Okla T. Allmand, also appearing of title as Okla T. Allmond, deceased and the heirs and devisees of Lavelle W. Allmond, deceased

4. The land referred to in this Commitment is described as follows:

The land referred to in this report is described in Exhibit "A" attached hereto.

EXHIBIT 'A'

LEGAL DESCRIPTION:

THAT PORTION OF THE WEST HALF OF THE NORTHEAST QUARTER AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 22 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF COUNTY ROAD NO. 962, WHICH POINT IS 853.4 FEET SOUTHWESTERLY FROM THE INTERSECTION OF SAID CENTER LINE WITH THE EAST AND WEST CENTER LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 36;
THENCE SOUTHEASTERLY AT RIGHT ANGLES TO SAID ROAD CENTER LINE 400 FEET;
THENCE SOUTHWESTERLY PARALLEL WITH SAID ROAD CENTER LINE 400 FEET;
THENCE NORTHWESTERLY AT RIGHT ANGLES TO SAID ROAD CENTER LINE 400 FEET;
THENCE NORTHEASTERLY ALONG SAID ROAD CENTER LINE 400 FEET TO THE POINT OF BEGINNING;

EXCEPT COUNTY ROAD NO. 962.

SCHEDULE B - SECTION 1
REQUIREMENTS

The following are the Requirements to be complied with:

- Item (A) Payment to or for the account of the Grantors or Mortgagors of the full consideration for the estate or interest to be insured.
- Item (B) Proper instrument(s) creating the estate or interest to be insured must be executed and duly filed for record.
- Item (C) Pay us the premiums, fees and charges for the policy.
- Item (D) You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions

SCHEDULE B - SECTION 2
GENERAL EXCEPTIONS

The Policy or Policies to be issued will contain Exceptions to the following unless the same are disposed of to the satisfaction of the Company.

- A. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- B. Any facts, rights, interest, or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of person in possession thereof.
- C. Easements, claims of easement or encumbrances which are not shown by the public records.
- D. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by public records.
- E. (1) Unpatented mining claims; (2) reservations or exceptions in patents or in acts authorizing the issuance thereof; (3) Water rights, claims or title to water; whether or not the matters excepted under (1), (2) or (3) are shown by the public records; (4) Indian Tribal Codes or Regulations, Indian Treaty or Aboriginal Rights, including easements or equitable servitudes.
- F. Any lien, or right to a lien, for services, labor, materials or medical assistance theretofore or hereafter furnished, imposed by law and not shown by the public records.
- G. Any service, installation, connection, maintenance, construction, tap or reimbursement charges/costs for sewer, water, garbage or electricity.
- H. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgages thereon covered by this Commitment.

**SCHEDULE B - SECTION 2
(continued)
SPECIAL EXCEPTIONS**

1. Lien of the Real Estate Excise Sales Tax and Surcharge upon any sale of said premises, if unpaid. As of the date herein, the excise tax rate for the **City of Covington** is at **1.78%**. Levy/Area Code: 1064

For all transactions recorded on or after July 1, 2005:

- **A fee of \$10.00 will be charged on all exempt transactions;**
- **A fee of \$5.00 will be charged on all taxable transactions in addition to the excise tax due.**

2. Reservations contained in Deed from the State of Washington recorded under recording no. 890435, reserving all oil, gases, coal, ores, minerals, fossils, etc., and the right of entry for opening, developing and working the same.
3. Covenants, conditions, restrictions and/or easements:
Recorded: April 10, 1920
Recording No.: 1408211
4. Reservations contained in Deed from the State of Washington recorded under recording no. 1918903, reserving all oil, gases, coal, ores, minerals, fossils, etc., and the right of entry for opening, developing and working the same.
5. The terms and provisions contained in the document entitled "Sensitive Area Notice" recorded April 2, 1991 as 9104020928 of Official Records.

Said instrument is a re-record of recording no(s). 9104010629.

6. Easement, including terms and provisions contained therein:
Recording Information: 20110516000389
In Favor of: Puget Sound Energy, Inc.
For: Transmission, distribution and sale of electricity
7. Matters of extended owner/purchaser coverage which are dependent upon an inspection and an ALTA survey of the property for determination of insurability.

Please submit a copy of the ALTA Survey at your earliest convenience for review. Our inspection will be held pending our review of the ALTA Survey and the result of said inspection will be furnished by supplemental report.

8. This item has been intentionally deleted.
9. Unrecorded leaseholds, if any, rights of vendors and security agreement on personal property and rights of tenants, and secured parties to remove trade fixtures at the expiration of the term.

10. Delinquent General Taxes for the year 2016.
- | | |
|-----------------------------|--------------------------------|
| Tax Account No.: | 362205-9071-02 |
| Amount Billed: | \$ 14,723.71 |
| Amount Paid: | \$ 0.00 |
| Amount Due: | \$ 14,723.71, plus
interest |
| Assessed Land Value: | \$ 1,125,000.00 |
| Assessed Improvement Value: | \$ 1,000.00 |

11. Lavelle W. Allmand died leaving a Non-Intervention Will.
- | | |
|--------------------------|-----------------------------|
| Admitted to Probate: | March 4, 2015 |
| Probate Case No.: | 15-4-01439-8, King County |
| Personal Representative: | Ralph Louis Allmand |
| Attorney for Estate: | Henry W. Grenley, WSBA#1321 |

Said personal representative is authorized to administer the estate without intervention of court and to mortgage, convey or contract to convey decedent's interest in said premises.

12. It is our understanding that Okla T. Allmand is now deceased. However, we find no evidence of record in King County that said party is in fact deceased or of a probate of the estate of said decedent. Therefore, the company will require the following prior to closing:
- (A) A completed signed and acknowledged Lack of Probate Affidavit, the form and substance of which is subject to the approval of this company;
 - (B) A copy of the decedent's last will. If the decedent did not leave a will, this should be so noted on the Lack of Probate Affidavit;
 - (C) A copy of the community property agreement, if such existed. If not, this should be noted on the Lack of Probate Affidavit.
 - (D) Proof of death of the decedent, made by recording of death certificate in the office of the N/A County Auditor
13. Potential charges, for the King County Sewage Treatment Capacity Charge, as authorized under RCW 35.58 and King County Code 28.84.050. Said charges could apply for any property that connected to the King County Sewer Service area on or after February 1, 1990.
- Note: Properties located in Snohomish County and Pierce County may be subject to the King County Sewage Treatment Capacity Charges. To verify charges contact: (206) 296-1450 or CapChargeEscrow@kingcounty.gov.
14. Prior to issuance of an extended coverage policy, the Company will require an Owner's Affidavit be completed and submitted to the Company for approval prior to closing. The Company reserves the right to make any additional requirement as warranted.
15. The terms and provisions contained in the document entitled "Memorandum of Easement Agreement" recorded May 9, 2016 as 20160509000371 of Official Records.

INFORMATIONAL NOTES

- A. Effective January 1, 1997, and pursuant to amendment of Washington State Statutes relating to standardization of recorded documents, the following format and content requirements must be met. Failure to comply may result in rejection of the document by the recorder.
- B. Any sketch attached hereto is done so as a courtesy only and is not part of any title commitment or policy. It is furnished solely for the purpose of assisting in locating the premises and First American expressly disclaims any liability which may result from reliance made upon it.
- C. The description can be abbreviated as suggested below if necessary to meet standardization requirements. The full text of the description must appear in the document(s) to be insured.

S. 36, Twn. 22N, Rge. 5E, SH NE and SE NW

APN: 362205-9071-02

Property Address: **17081 Southeast Wax Road, Covington, WA 98042**
- D. A fee will be charged upon the cancellation of this Commitment pursuant to the Washington State Insurance Code and the filed Rate Schedule of the Company.

END OF SCHEDULE B



First American Title Insurance Company
National Commercial Services

COMMITMENT
Conditions and Stipulations

1. The term "mortgage" when used herein shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of a defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment, other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act or reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option, may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of Policy or Policies committed for, and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the Policy or Policies committed for and such liability is subject to the Insuring provisions, exclusion from coverage, and the Conditions and Stipulations of the form of Policy or Policies committed for in favor of the proposed Insured which are hereby incorporated by references, and are made a part of this Commitment except as expressly modified herein.
4. Any claim of loss or damage, whether or not based on negligence, and which arises out of the status of the title to the estate or interest or the lien of the Insured mortgage covered hereby or any action asserting such claim, shall be restricted to the provisions and Conditions and Stipulations of this Commitment.

The First American Corporation
First American Title Insurance Company
National Commercial Services
PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values, a copy of which can be found on our website at www.firstam.com.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

© 2001 The First American Corporation - All Rights Reserved