



**Lewiston City Council
SPECIAL MEETING AGENDA
March 18, 2024 - 4:00 PM
Bell Building – Second Floor Conference Room – 215 D Street
Lewiston, Idaho 83501**

Seating will be available on a first-come, first-served basis. All others who wish to observe this meeting may watch and listen to the livestream on their own device(s) by visiting the City of Lewiston's website at cityoflewiston.org.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. CITIZENS COMMENTS

This is an opportunity for citizens to address the Council on agenda items or other items they wish to bring to the attention of the Council. Citizens are encouraged to discuss operational issues in advance with the Mayor. In consideration of others wishing to speak, please limit your remarks to three minutes.

IV. ACTIVE AGENDA

- A. RESOLUTION 2024-10:** Considering approving the execution and performance of a real estate purchase and sale agreement whereby the City of Lewiston will sell the property located at 805 6th Avenue, Lewiston, Idaho to Myron Gemmer, or assigns; authorizing the execution and delivery of documents; and providing for related matters. - Action Item (Assistant City Attorney Tengono)

V. ADJOURNMENT - Action Item

The City of Lewiston is committed to providing access and reasonable accommodation in its services, programs, and activities and encourages qualified persons with disabilities to participate. If you anticipate needing any type of accommodation or have questions about the physical access provided at this meeting, please contact the City Clerk's Office at least forty-eight (48) hours in advance of the meeting at 208-746-3671, ext. 6202.



CITY COUNCIL MEETING AGENDA ITEM SUMMARY

ITEM TITLE RESOLUTION 2024-10	AGENDA NO. IV. A. AGENDA DATE: March 18, 2024
ITEM SUMMARY (Background, Discussion, Key Points, Recommendations, etc.) The proposed Real Estate Purchase and Sale Agreement was drafted by Assistant City Attorney Jennifer Tengono, and no changes were proposed by Mr. Gemmer prior to him signing the document.	
BUDGET IMPACT (Identify any or all impacts this proposed action would have on the City budget and/or personnel resources) When this transaction closes, brokerage fees paid to Silvercreek Realty Group will be deducted by the title company at the closing of the transaction. No funds will be paid directly by the City. The title company will provide all settlement documents that will indicate the total sum owed to the City.	
ACTION PROPOSED Approval of Resolution 2024-10, authorizing the Mayor and City Clerk to sign the necessary documents to close the sale of the Bollinger Building.	

RESOLUTION 2024-10

A RESOLUTION APPROVING THE EXECUTION AND PERFORMANCE OF A REAL ESTATE PURCHASE AND SALE AGREEMENT WHEREBY THE CITY OF LEWISTON WILL SELL THE PROPERTY LOCATED AT 805 6TH AVENUE, LEWISTON, IDAHO TO MYRON GEMMER, OR ASSIGNS; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, pursuant to Idaho Code § 50-1401, the Lewiston City Council (“Council”) has the power to sell, exchange, or convey any real property owned by the City of Lewiston (“City”) that is underutilized or not used for public purposes;

WHEREAS, Chapter 14 of Title 50 of Idaho Code prescribes a procedure to be followed regarding the disposition of City-owned real property;

WHEREAS, on August 14, 2023, the Council approved Resolution 2023-47, declaring that the real property and building located at 805 6th Avenue, Lewiston, Idaho, commonly known as the Anne Bollinger Performing Arts Center (the “Property”), is surplus to the City’s needs and not used for public purposes; declaring a minimum purchase price; and directing the sale of the Property at public auction;

WHEREAS, on September 11, 2023, the Council held a duly noticed public hearing regarding the proposed sale of the Property, in accordance with Idaho Code §§ 50-1402 and 50-1403, and approved Resolution 2023-52, directing the City’s Purchasing Division to proceed with holding a public auction for the purpose of selling the Property;

WHEREAS, said public auction closed on October 17, 2023 with no bidders;

WHEREAS, pursuant to Idaho Code § 50-1403(1), after an unsuccessful public auction of City-owned real property, the Council may proceed to sell such property as it deems in the best interest of the City;

WHEREAS, on November 6, 2023 the Council authorized the Mayor to enlist a realtor to aid in the sale of the Property, and Gary Bergen of Team B.M.C. of the Silvercreek Realty Group was subsequently retained;

WHEREAS, on February 8, 2024 the City received a Letter of Intent from Myron Gemmer expressing his intent to purchase the Property;

WHEREAS, on February 12, 2024, the Council authorized the Mayor to accept Mr. Gemmer’s Letter of Intent, and to negotiate and prepare a purchase and sale agreement between the City and Mr. Gemmer for the sale of the Property for the Council’s consideration;

WHEREAS, the City complied in all respects with Chapter 14, Title 50 of Idaho Code governing the process for the sale of City-owned property, including declaring a minimum value, the solicitation of public auction bids, and subsequent marketing of the property for the highest price the market will bear;

WHEREAS, the City has received the Real Estate Purchase and Sale Agreement signed by Mr. Gemmer, which is attached as Exhibit A and incorporated by this reference (“Agreement”); and

RESOLUTION 2024-10

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WHEREAS, the Council finds and declares that the proposed purchase price for the Property is the highest price the market will bear and the other terms and conditions of the proposed sale are acceptable.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF LEWISTON, IDAHO:

SECTION 1: The foregoing recitals are hereby incorporated into and made part of this Resolution 2024-10.

SECTION 2: Pursuant to Idaho Code § 50-1403(1) the Council deems it is in the best interest of the City to sell the Property to Myron Gemmer for the sum of one hundred thirty thousand dollars (\$130,000).

SECTION 3: The terms of the Agreement are hereby approved and the Mayor and City Clerk are authorized to execute and attest, respectively, said Agreement on behalf of the City.

SECTION 4: The Mayor and City Clerk are hereby instructed and authorized to proceed with performance of the Agreement and proceed to closing, executing and attesting, respectively, any additional documents, on behalf of the City that are 1) customary in the sale of real property in Nez Perce County, Idaho; and 2) not inconsistent with the terms of the Agreement.

SECTION 5: The Mayor and City Clerk are hereby authorized to execute any addendums necessary to authorize an earlier Closing Date, as defined in Exhibit A, than agreed upon in the Agreement.

SECTION 6: This resolution shall become effective upon its passage.

PASSED this _____ day of _____ 2024.

CITY OF LEWISTON

By: _____
Daniel G. Johnson, Mayor

ATTEST: _____
Tanya M. Brocke, City Clerk

EXHIBIT A
TO
RESOLUTION 2024-10
PURCHASE AND SALE AGREEMENT
SIGNED BY MYRON GEMMER

REAL ESTATE PURCHASE AND SALE AGREEMENT

This Real Estate Purchase and Sale Agreement ("Agreement") is made between MYRON GEMMER, whose address is PO BOX 247, North Lakewood, WA 98259 ("Buyer"), and the CITY OF LEWISTON, an Idaho municipality, whose address is 1134 F Street, PO BOX 617, Lewiston, ID 83501 ("Seller"), collectively referred to as the "Parties" or individually as "Party."

1. DEFINITIONS. The following terms have the following meanings when used in this Agreement:

"Business Day". A day other than a Saturday, Sunday, or day on which banking institutions in Idaho are authorized or required by law or executive order to be closed.

"Cash". United States currency represented by certified or cashier's check or wire transfer. Cash in hand and money orders will not be accepted.

"Closing". The consummation of the Transaction, as evidenced by the delivery of all required funds and documents to Escrow Agent and the disbursement or delivery of such funds and documents by Escrow Agent in accordance with this Agreement and any other consistent instructions.

"Closing Date". The date upon which Closing occurs, to be no sooner than 45 days and no later than 60 days from the date of acceptance of this Agreement, or a later date as the Parties may agree to in writing.

"Earnest Money". The funds to be deposited by Buyer with Escrow Agent (and all accrued interest thereon) in accordance with Section 2.3.1 of this Agreement.

"Effective Date". The date that this Agreement is last dated and is the date on which it will take effect regardless of whether one or more parties hereto signed it before that date.

"Escrow". The escrow to be created in accordance with this Agreement to hold the funds submitted as Earnest Money until finalization of the Transaction.

"Escrow Agent". TitleOne, located at 1230 Idaho Street, Lewiston, Idaho 83501.

"Permitted Exceptions". All current real property taxes and assessments, all existing patent reservations, easements, rights of way, protective covenants and other matters of record, all applicable zoning ordinances, building codes, laws and regulations, all existing tenancies disclosed, if any, and other matters that would be disclosed by an accurate survey or inspection of the Property, and all other matters affecting title to the Property identified in Section 3.8 of this Agreement. Seller is not warranting the location of the Property boundary lines.

"Transaction". The purchase and sale of the Property contemplated by this Agreement.

2. PURCHASE AND SALE OF PROPERTY.

2.1 Property. Subject to the terms and conditions of this Agreement, the Seller shall sell to the Buyer, and the Buyer shall purchase from the Seller the real property located at 805 6th Avenue, Lewiston, ID 83501 and legally described in Exhibit A attached to this Agreement, and the building and improvements located on said real property including all fixtures, and any easements, rights of way, water rights, mineral rights and appurtenances running with or pertaining to the land (the "Property"). The Property also includes any and all personal property located within the Property.

2.2 Purchase Price Amount. The Purchase Price for the Property is ONE HUNDRED THIRTY THOUSAND DOLLARS (\$130,000) ("Purchase Price").

2.3 Purchase Price Payment. The Purchase Price shall be paid as follows:

2.3.1 Earnest Money Deposit. Buyer shall deposit TEN THOUSAND DOLLARS (\$10,000) ("Earnest Money"), in Cash, with the Escrow Agent, to be deposited within five (5) business days from the execution of this Agreement. The Earnest Money shall be held in an escrow account and applied towards the Purchase Price at Closing.

2.3.2 Payment. The balance of the Purchase Price shall be paid in Cash by the Buyer, at or before Closing to the Closing Agent and paid to the Seller at Closing.

2.3.3 No Financing Contingency. It is expressly acknowledged by Buyer that this Agreement is not subject to any financing contingency and that no financing for the Transaction contemplated herein shall be provided by the Seller, provided, however, that nothing contained herein shall prohibit the Buyer from obtaining such financing. Buyer has or will have at Closing sufficient cash, available lines of credit, or other sources of immediately good funds to enable it to make payment of the Purchase Price, together with any other amounts to be paid by Buyer hereunder, to Seller, in full.

2.4 Possession. The Seller shall deliver actual possession of the Property to the Buyer at Closing.

2.5 Risk of Loss. Until Closing, the Seller shall assume all risk of loss or damage with respect to the Property. In the event of any loss or damage to all or any part of the Property, the Buyer shall have the right to (i) terminate this Agreement, in which event all funds deposited shall be refunded to the Buyer and each party shall be fully released and discharged from any further obligations under this Agreement; or (ii) close the purchase of the Property and elect to receive all insurance proceeds paid or payable by reason of the loss or damage. Any reduction of the Purchase Price in accordance with the receipt of insurance proceeds paid or payable through option (ii) shall not exceed the Purchase Price. Any excess funds shall remain the property of the Seller.

2.6 Prorated Items. The following items shall be prorated as of Closing: (i) taxes and special assessments using the last assessments available before Closing, if any; (ii) interest and reserves on liens, encumbrances, and obligations, if any, expressly assumed in writing by the Buyer; and (iii) utilities, if any.

2.6.1 Real Property Taxes. Buyer acknowledges that the Property is subject to real property taxes, assessments, and levies, including any special assessments, which may be imposed by the appropriate taxing authorities. The Buyer further acknowledges that such taxes and assessments have not been assessed or levied since Seller acquired the Property or at the time of this Agreement because the Seller is a tax-exempt municipal entity. Buyer shall be responsible for any and all such taxes and assessments that are levied or become due and payable after the Closing Date, and Buyer shall promptly pay any such amounts when due.

2.6.2 Utilities. Buyer acknowledges and agrees to be responsible for all costs and payments associated with the reconnection of any utilities (e.g., water, gas, electricity, etc.) that are currently disconnected at the Property. The Buyer is responsible to coordinate and arrange for the reconnection of utilities and shall bear all costs and fees related to such reconnection. The Buyer shall comply with any requirements or procedures set forth by the respective utility providers to effectuate the reconnection. The Property is subject to a Drainage System Utility Fee, which came into effect January 1, 2024.

3. REPRESENTATIONS, WARRANTIES, AND COVENANTS OF THE SELLER.

The Seller represents and warrants to, and covenants with, the Buyer as follows:

3.1 Authority of Seller. The execution, delivery, and consummation of this Agreement by the Seller has been duly approved by the Lewiston City Council through Resolution No. _____, in accordance with Idaho Code Title 50, Chapter 14, and any documents or instruments governing the Seller. The execution, delivery, and consummation of this Agreement by the Seller will not, with the passage of time, the giving of notice, or otherwise, cause the Seller to be in violation or breach of any law, regulation, contract, agreement, or other restriction to or by which the Seller or the Property is subject or bound.

3.2 Property Ownership. The Seller has fee title to the Property or will have at the time of Closing, subject to the Permitted Exceptions.

3.3 Conveyance. Title to the Property shall be conveyed by a Warranty Deed. Title of the Property shall be marketable and insurable and shall be free and clear of all liens, encumbrances, and restrictions, exclusive of (i) real property taxes for the current year which are not due and payable on or before Closing, (ii) liens, encumbrances, and conditions identified in writing in the title commitment provided by Seller identified in Section 3.8 below, and (iii) unsafe property conditions.

3.4 Utilities. Exclusive of any applicable name transfer or hookup fees: (i) all of the following utilities and services are currently available to the Property, albeit disconnected, and (ii) all physical improvements (including, without limitation, pipes and lines) required for such utilities and services are in place:

<u>UTILITY OR SERVICE</u>	<u>PROVIDED BY</u>
Water	City of Lewiston
Electricity	Avista
Gas	Avista
Wet Line Sewer	City of Lewiston
Weekly Garbage Pickup	City of Lewiston

3.5 Material Misstatement or Omissions. No representation or warranty made by the Seller in this Agreement or in any document or agreement furnished in connection with this Agreement contains or will contain any untrue statement of material fact, or omits or will omit to state a material fact necessary to make the statements not misleading.

3.6 Conduct Pending Closing. From the Effective Date to Closing, the Seller shall (i) maintain the Property in its customary manner, (ii) continue to operate the Property in the manner previously operated by the Seller, (iii) not enter into any contracts or purchase orders relating to the Property, other than in the ordinary course of operating the Property, and (iv) perform all acts necessary to ensure that the representations, warranties, and covenants of the Seller shall be true, complete, and accurate in all respects on and as of the date of closing to the same force and effect as if made at Closing.

3.7 Access to Property. After the Buyer's execution of this Agreement, the Buyer's access to the Property shall include inspections for structural integrity, environmental assessments, surveys, appraisals, and any other evaluations deemed necessary by the Buyer to assess the Property's condition and suitability for its intended use in accordance with the Inspection/Investigation Contingency found in Section 4. The Buyer and the Buyer's authorized representatives and agents shall have reasonable access to the Property upon seven (7) business days' notice to the City of Lewiston Public Works Department, at 215 D Street, Lewiston, ID 83501 in writing by email to Ed George at consmgmt@cityoflewiston.org, and to the Seller's books and records relating to the Property. Buyer acknowledges that the Property has been deemed Unfit for Human Occupancy

in accordance with Section 108.1.3 of the International Property Maintenance Code and Buyer will be required to execute a Release, Waiver, Assumption of Risk and Indemnity Agreement prior to entry for the first-time and for all representatives, agents, or other third-parties who may wish to enter the Property on the Buyer's behalf.

3.8 Title Commitment. Escrow Agent has issued and delivered to Seller a commitment for title insurance with respect to the Property disclosing all matters of record and other matters of which Escrow Agent has knowledge that relate to the title of the Property, provided as Exhibit B, detailing Escrow Agent's requirements for Closing the Escrow, committing to issue to Buyer an ALTA Standard Owner's Policy of Title Insurance with respect to the Property, and providing legible copies of all instruments referred to in the report (collectively, the "Commitment"). Buyer acknowledges that Seller is not obligated to eliminate any easements, liens, encumbrances or other exceptions or requirements in the Commitment, nor may the Transaction be terminated as a result of any easement, lien, encumbrance or other exception or requirement in the Commitment.

3.9 Physical Condition of the Property. THE PROPERTY IS BEING SOLD "AS-IS" AND "WHERE-IS" AND SUBJECT TO ALL SPECIAL LIENS OR ASSESSMENTS, ZONING, RESTRICTIONS, PROHIBITIONS, EASEMENTS, RESERVATIONS, UNSAFE PROPERTY CONDITIONS AND/OR OTHER INTERESTS, WITH ALL FAULTS AND DEFECTS, WHETHER LATENT OR PATENT, AND SUBJECT TO ORDINARY WEAR AND TEAR FROM THE DATE HEREOF THROUGH THE CLOSING DATE. BUYER ACKNOWLEDGES THAT IT IS NOT RELYING UPON, AND THAT SELLER IS NOT LIABLE FOR OR BOUND BY, ANY EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, PROMISES, STATEMENTS, REPRESENTATIONS, OR INFORMATION REGARDING THE PROPERTY'S PHYSICAL OR ENVIRONMENTAL CONDITION, INCOME, EXPENSES, OPERATION, USE, COMPLIANCE WITH LAWS, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EXCEPT AS MAY BE SPECIFICALLY SET FORTH IN THIS AGREEMENT.

THE SELLER OR ANYONE ON BEHALF OF THE SELLER, DOES NOT MAKE ANY CLAIMS OR PROMISES ABOUT THE CONDITION, ZONING OR USES, OR VALUE OF THE PROPERTY OR OTHER PROPERTY INCLUDED IN THIS TRANSACTION. THE BUYER ACKNOWLEDGES AND AGREES THAT IT HAS INSPECTED THE PROPERTY OR HAS WAIVED SUCH RIGHT TO INSPECT THE PROPERTY. ANY DISCLOSURE STATEMENTS PROVIDED TO THE BUYER FROM THE SELLER ARE FOR INFORMATIONAL PURPOSES ONLY AND SHALL NOT BE CONSIDERED A WARRANTY OR REPRESENTATION OR SURVIVE CLOSING OF THE TRANSACTION.

BUYER FURTHER WARRANTS AND ACKNOWLEDGES TO AND AGREES WITH SELLER THAT BUYER IS BUYING THE PROPERTY IN ITS "AS-IS" AND "WHERE-IS" CONDITION WITH ALL ITS FAULTS AND DEFECTS AS OF THE CLOSING DATE, AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, EITHER EXPRESS OR IMPLIED, AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, OR ANY OTHER WARRANTY OF ANY KIND, NATURE, OR TYPE WHATSOEVER FROM OR ON BEHALF OF SELLER, EXCEPT FOR THE REPRESENTATIONS OF SELLER EXPRESSLY SET FORTH IN THIS AGREEMENT.

SELLER SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED, CONCERNING (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, STRUCTURAL INTEGRITY, SOIL AND GEOLOGY; (B) THE INCOME TO BE DERIVED FROM THE PROPERTY; (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY

CONDUCT THEREON, INCLUDING THE POSSIBILITIES OF FUTURE DEVELOPMENT OF THE PROPERTY; (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OF MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY; (G) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY; (H) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE PROPERTY OR ANY OTHER ENVIRONMENTAL MATTER OR CONDITION OF THE PROPERTY; OR (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY.

EFFECTIVE AS OF THE CLOSING, AND SUBJECT TO ANY SURVIVING OBLIGATIONS (AS SUCH TERM IS HEREINAFTER DEFINED), BUYER SHALL BE DEEMED TO HAVE RELEASED SELLER AND ITS SUCCESSORS, IF ANY, FROM ALL CLAIMS WHICH BUYER OR ANY AGENT, REPRESENTATIVE, EMPLOYEE, RESIDENT, CITIZEN OR OTHER PERSON OR ENTITY ACTING BY, THROUGH OR UNDER BUYER HAS OR MAY HAVE ARISING FROM OR RELATED TO ANY MATTER OR THING RELATED TO OR IN CONNECTION WITH THE PROPERTY, INCLUDING THE DOCUMENTS AND INFORMATION REFERRED TO HEREIN OR ANY ENVIRONMENTAL CONDITIONS, AND BUYER SHALL NOT LOOK TO SELLER OR ITS SUCCESSORS IN CONNECTION WITH THE FOREGOING FOR ANY REDRESS OR RELIEF. THIS RELEASE SHALL BE GIVEN FULL FORCE AND EFFECT ACCORDING TO EACH OF ITS EXPRESSED TERMS AND PROVISIONS, INCLUDING THOSE RELATED TO UNKNOWN AND UNSUSPECTED CLAIMS, DAMAGES, AND CAUSES OF ACTION.

4. CONTINGENCIES.

4.1 Inspection/Investigation Contingency. Buyer shall have forty-five (45) days after the Effective Date (the "Inspection Period") to conduct an inspection/investigation of the Property, including without limitation, a survey, title commitment, application for a conditional use permit with the City of Lewiston, soils testing, physical inspection, and due diligence of all sorts. Buyer has the right to enter on the Property during this process to perform reasonable work to judge the suitability of the Property, subject to the requirements of Section 3.7. Buyer must promptly pay for such work, not allow liens for that work to attach to the Property, and repair such work if it chooses to terminate this Agreement. Buyer shall indemnify and hold Seller harmless from any loss or damage to any person or property caused by the Buyer or any of the Buyer's agents.

4.1.1 Disclosure of Documents. Buyer acknowledges that Seller has provided Buyer with any surveys, reports or other documents in Seller's possession pertaining to the Property.

4.1.2 Termination. If Buyer is not satisfied with the results of its inspection/investigation of the Property, Buyer may terminate this Agreement. Buyer's election to terminate must be in writing and received by Seller no later than forty-five (45) days after the Effective Date. If that written termination is timely received by Seller, then Seller shall return the Earnest Money to Buyer, and no party shall have any further obligation under this Agreement.

4.2 No Appraisal Contingency. There is no appraisal contingency. Buyer agrees and represents it has exercised its independent judgment about the value of the Property.

4.3 No Other Contingencies. There are no other contingencies other than set out in this Section 4. Without limiting the foregoing, Buyer specifically agrees it has investigated and is satisfied with all laws or

ordinances, including those involving any use of, building on, or zoning of the Property, and Buyer understands that after Closing it may need to obtain various permits or approvals to put the Property to the use it intends.

5. BROKERAGE.

5.1 Brokerage Representation. The Parties acknowledge that Silvercreek Realty Group, represented by Gary Bergen and Tami Meyers, also known as "Team B.M.C." ("Brokerage Firm") is the designated brokerage representing the Seller and/or Buyer in this real estate transaction.

5.2 Broker's Compensation: Seller agrees to pay a commission to the Brokerage Firm for services rendered in the amount of six percent (6%) of the Purchase Price. Of this total brokerage fee, five percent (5%) of the Purchase Price may be shared with a cooperating brokerage, in the event there is no cooperating brokerage, the Brokerage Firm shall receive the full brokerage fee. Buyer acknowledges that the compensation of the Brokerage Firm shall be paid by Seller unless otherwise agreed in writing. The fee shall be paid in Cash at Closing and deducted from the Seller's proceeds on the settlement statement unless otherwise designated by the Brokerage Firm in writing.

5.3 Responsibilities of Brokerage Firm. The Brokerage Firm shall act as a neutral intermediary and facilitate the Transaction between the Parties. It shall provide necessary disclosures, documentation, and guidance in accordance with Idaho real estate laws and regulations.

5.4 Cooperation with Other Brokers. The Parties agree that if other licensed real estate brokers are involved with the Transaction, the Brokerage Firm shall cooperate and share commissions as per the terms agreed upon in separate agreements or according to customary practices.

5.5 Indemnification. Seller and Buyer shall indemnify and hold harmless the Brokerage Firm and its agents from any claims, damages, or liabilities arising out of or related to misrepresentations or omissions made by Seller or Buyer.

5.6 Brokerage Firm's Relationship. The Parties understand that the Brokerage Firm represents the Seller and not the Buyer, unless otherwise agreed upon in writing by all parties involved.

6. CLOSING.

6.1 Closing Agent. The Closing Agent for this Agreement shall be TITLEONE at 1230 Idaho Street, Lewiston, Idaho 83501 ("Closing Agent"). Seller shall be responsible for the Standard Title Commitment issued by Escrow Agent and the premium for a standard title insurance policy, and real estate commissions and fees if any, incurred on behalf of Seller. Buyer shall be responsible for all costs and expenses of Closing, including, but not limited to, Buyer's legal fees and expenses, all title company settlement fees, notary fees, escrow and closing fees, recording fees and costs, and real estate commissions and fees, if any, incurred on behalf of the Buyer.

6.2 Time, Date and Place of Closing. Closing shall be at the offices of the Closing Agent no later than the close of business on the Closing Date, or at such other time, date, and place as may be mutually agreed between Seller and Buyer.

6.3 Closing Agent Instructions. Buyer and Seller shall execute and deliver to the Closing Agent instructions on the form generally provided by the Closing Agent with such modifications as are reasonably made by the Buyer.

7. GENERAL PROVISIONS.

7.1 Indemnification. To the fullest extent permissible by law, Buyer shall defend, indemnify, and hold Seller, its officers, officials, employees, and agents harmless for all claims, demands, losses, actions, causes of action, suits, damages, judgments, obligations, liabilities, costs, expenses, and/or injuries to persons or property (collectively "Claims") to the extent that such Claims arise out of or are in connection with any negligent act, error, or omission of Buyer, its officers, officials, employees, or agents that is in any way connected with the Transaction contemplated by this Agreement. In the event that Seller is alleged to be liable on account of any negligent act, error, or omission of Buyer, its officers, officials, or employees, then Buyer shall defend such allegation through counsel chosen by the Buyer and Seller, and Buyer shall bear all costs, fees, and expenses of such defense, including, but not limited to, all attorney fees and expenses, court costs, and expert witness fees. These indemnification provisions shall survive the expiration or termination of this Agreement. Buyer's indemnification and defense obligations herein shall extend to Claims occurring after this Agreement is terminated or expired, as well as while this Agreement is in force, and shall continue until all Claims are finally adjudicated and fully and finally barred by applicable laws.

7.2 Notices. All notices, claims, requests and other communications ("Notices") under this Agreement (i) shall be in writing, and (ii) shall be addressed or delivered to the intended Party's address set forth in the beginning of this Agreement or at such other address as shall be given in writing by a party to the other, unless otherwise noted in this Agreement. Notices complying with the provisions of this Section shall be deemed to have been delivered (i) upon the date of delivery if delivered in person or sent by electronic mail to the respective e-mail addresses set forth below, or (ii) on the date of the postmark on the return receipt if deposited in the United States Mail, with postage prepaid for certified or registered mail, return receipt requested to the intended Party's address listed at the beginning of this Agreement.

Buyer: ONIBOR18@YAHOO.COM (e-mail address for Notices)

Seller: purchasing@cityoflewiston.org and cityattorney@cityoflewiston.org

7.3 Attorney Fees and Costs. In the event a controversy, claim, default or action arises between the Parties to this Agreement regarding the enforcement of its terms and conditions, or the breach of any of its provisions, the prevailing party shall be entitled to recover from the other party all costs and expenses incurred by the prevailing party, including reasonable attorney fees, regardless of whether such controversy, claim, or action is prosecuted to judgment or appealed.

7.4 Governing Law, Jurisdiction, and Venue. This Agreement shall be construed and interpreted in accordance with the laws of the State of Idaho. The parties agree that the courts of Idaho shall have exclusive jurisdiction and agree that Nez Perce County is the proper venue.

7.5 Time of the Essence. Time is of the essence with respect to the obligations to be performed under this Agreement.

7.6 Third Party Beneficiaries. Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party. Nothing contained herein shall extend the liability of either party beyond that provided by governing law.

7.7 Rights Cumulative. Except as expressly provided in this Agreement, and to the extent permitted by law, any remedies described in this Agreement are cumulative and not alternative to any other remedies available at law or in equity.

7.8 Non-waiver of Remedies. The failure or neglect of a party to enforce any remedy available by reason of the failure of the other party to observe or perform a term or condition set forth in this Agreement

shall not be a waiver of such term or condition. A waiver by a party (i) shall not affect any term or condition other than the one specified in such waiver, and (ii) shall waive a specified term or condition only for the time and in a manner specifically stated in the waiver.

7.9 Modifications. This Agreement may be modified or amended only by a writing duly executed by both Parties.

7.10 Successors and Assigns. Subject to any express provisions in this Agreement regarding restrictions on transfers or assignments, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns, heirs, and personal representatives.

7.11 Entire Agreement. All Exhibits to this Agreement are incorporated as a part of this Agreement. This Agreement, together with the accompanying Exhibits, is the entire agreement among the Parties and supersedes all prior memoranda, correspondence, conversations and negotiations.

7.12 Severability. The invalidity of any portion of this Agreement, as determined by a court of competent jurisdiction, shall not affect the validity of any other portion of this Agreement.

7.13 Counterparts. 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.

7.14 Survival of Representations, Warranties, and Covenants. All representations, warranties, and covenants of the Seller set forth in this Agreement shall survive the Closing and shall survive the recording of the Warranty Deed.

7.15 Public Records. The Parties herein understand and acknowledge that this Agreement and its attachments are subject to the Idaho Public Records Act, Idaho Code §§ 74-101, *et seq.*, the Idaho Open Meetings Act, Idaho Code §§ 74-201, *et seq.*, and other applicable federal and state laws, and might be public records.

7.16 City Council Approval. The validity of this Agreement shall be expressly conditioned upon City Council action approving this Agreement. Execution of this Agreement by the persons referenced in Section 8 prior to such ratification or approval shall not be construed as proof of validity in the absence of Lewiston City Council approval.

7.17 Advice of Counsel. Each Party acknowledges that, in executing this Agreement, such Party has had the opportunity to seek the advice of independent legal counsel and has read and understood all of the terms and provisions of this Agreement. This Agreement shall not be construed against any party by reason of seeking or choosing not to seek the advice of legal counsel.

7.18 Agreement Language. The Parties agree that the language, terms, covenants, conditions and agreements contained in this Agreement are all the product of the negotiations of the Parties. No provision of this Agreement is to be interpreted for or against any Party because that Party or its attorney drafted the provision. The headings in this Agreement are for reference only, and shall not in any way control the meaning or interpretation of this Agreement.

Signature page to follow

8. SIGNATURES.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date of the last signature below.

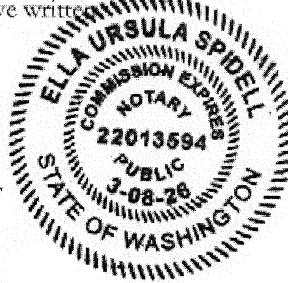
BUYER:
MYRON GEMMER

Myron Gemmer
Date: 3/11/24

STATE OF WASHINGTON)
County of Snohomish) ss.

On this 11 day of March, 2024, before me a Notary Public, personally appeared MYRON GEMMER, known or identified to me, to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed it as his voluntary act or deed.

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



Ella Ursula Spidell
NOTARY PUBLIC FOR WASHINGTON
My Commission Expires: 3/8/26

SELLER:
CITY OF LEWISTON

Daniel G. Johnson, Mayor

Attest: Tanya M. Brocke, City Clerk

STATE OF IDAHO)
County of Nez Perce) ss.

On this _____ day of _____, 2024, before me a Notary Public, personally appeared DANIEL G. JOHNSON and TANYA M. BROCKE, known or identified to me as the Mayor and City Clerk, respectively, of the City of Lewiston, and stated that they have the authority to execute this instrument on behalf of the City of Lewiston, and did execute this instrument on behalf of the City of Lewiston.

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
My Commission Expires: _____

8. SIGNATURES.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the date of the last signature below.

BUYER:
MYRON GEMMER

Date: _____

STATE OF WASHINGTON)
) ss.
County of _____)

On this ____ day of _____, 2024, before me a Notary Public, personally appeared MYRON GEMMER, known or identified to me, to be the person whose name is subscribed to this instrument, and acknowledged to me that he executed it as his voluntary act or deed.

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 WASHINGTON
My Commission Expires: _____

SELLER:
CITY OF LEWISTON

Daniel G. Johnson, Mayor

Attest: Tanya M. Brocke, City Clerk

STATE OF IDAHO)
) ss.
County of Nez Perce)

On this ____ day of _____, 2024, before me a Notary Public, personally appeared DANIEL G. JOHNSON and TANYA M. BROCKE, known or identified to me as the Mayor and City Clerk, respectively, of the City of Lewiston, and stated that they have the authority to execute this instrument on behalf of the City of Lewiston, and did execute this instrument on behalf of the City of Lewiston.

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
My Commission Expires: _____