

**PORTLAND DEVELOPMENT COMMISSION**

Portland, Oregon

**RESOLUTION NO. 7163**

**AUTHORIZING A PURCHASE AND SALE AGREEMENT WITH THE UNITED STATES POSTAL SERVICE FOR THE ACQUISITION OF 13.4 ACRES OF REAL PROPERTY LOCATED AT 715 NW HOYT STREET IN THE RIVER DISTRICT URBAN RENEWAL AREA FOR \$88,000,000 AND AUTHORIZING AN INTERFUND LOAN AGREEMENT**

**WHEREAS**, the Portland Development Commission (“PDC”) is undertaking the River District Urban Renewal Plan, adopted September 25, 1998, and subsequently amended (the “Plan”);

**WHEREAS**, relocation and acquisition of the United States Postal Service (“USPS”) Processing and Distribution Center site (“Downtown Property”) at 715 NW Hoyt Street in the River District Urban Renewal Area has long been envisioned by the general public, elected officials, and adopted land use and development plans as one of the most significant redevelopment sites in Portland’s central city;

**WHEREAS**, the 2015 West Quadrant Plan approved by Portland City Council (“City Council”) on March 5, 2015, states that PDC and partners should encourage the relocation of the regional distribution facility and redevelop the Downtown Property for a high density mix of uses (including affordable and market rate housing, office, and retail) and new city attractions (including the provision of civic parks, open space amenities, and signature connections) between the Pearl District and Old Town/Chinatown, and between the North Park Blocks and the Broadway Bridge;

**WHEREAS**, the Broadway Corridor Framework Plan, adopted by the PDC Board of Commissioners (“Board”) through Resolution No. 7147 on October 14, 2015, and by City Council through Ordinance No. 37165 on November 5, 2015, provides a strategic vision for development of the broader Broadway Corridor study area and outlines a preferred development concept for the Property;

**WHEREAS**, the acquisition of the Downtown Property is contingent upon the relocation of the USPS Downtown Property to an alternate location within the Portland metropolitan area that meets USPS specifications (“Replacement Facility”);

**WHEREAS**, PDC entered into an Agreement to Pursue Exclusive Negotiations and an Escrow Agreement with USPS in May 2015 to examine the feasibility of locating, financing, and constructing a Replacement Facility;

**WHEREAS**, PDC and USPS have negotiated a term sheet of the key terms of a Purchase and Sale Agreement (“Agreement”) which are reflected in Exhibit A (“USPS PSA Terms”) for PDC to acquire the Downtown Property for a purchase price of \$88,000,000;

**WHEREAS**, as directed by City Council, the Portland Housing Bureau will co-invest in the acquisition of the Downtown Property, providing at least \$13,000,000; and

**WHEREAS**, PDC is authorized pursuant to Oregon Revised Statutes (“ORS”) 294.460 to loan money from a fund to another fund of the municipal corporation if the loan is authorized by official resolution or ordinance of the governing body.

**NOW, THEREFORE, BE IT RESOLVED**, that the PDC Board authorizes the Executive Director to execute an Agreement, in substantial accord with the terms and conditions reflected in Exhibit A, subject to certain conditions;

**BE IT FURTHER RESOLVED**, that the Executive Director may approve changes to the Agreement, if such changes do not materially increase PDC’s obligations or risks, as determined by the Executive Director in consultation with PDC’s General Counsel;

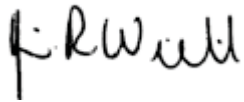
**BE IT FURTHER RESOLVED**, that the PDC Board hereby authorizes an interfund loan (“Interfund Loans”) pursuant to ORS 294.460 not to exceed \$75,000,000 in aggregate to provide cash to the Business Management Fund in accordance with the following terms;

- (a) Allowable recipient fund, which shall be permitted to borrow cash as needed for project requirements, in an amount not to exceed SEVENTY FIVE MILLION DOLLARS (\$75,000,000):
  - Fund 520 – Business Management Fund
- (b) The Interfund Loan may be made by the following fund to the extent of available cash, but in an amount not to exceed the maximum amounts specified below:
  - Fund 330 – River District Urban Renewal Fund \$75,000,000
- (c) The Interfund Loan is a capital loan restricted to acquisition of the Downtown Property residing in the River District URA.
- (d) The Interfund Loan can be repaid in installments as property sale proceeds become available. Property sale proceeds must be used to repay the Interfund Loan first until the balance on River District interim financing is repaid per the terms of the Intergovernmental Agreement between PDC and the City of Portland for River District Urban Renewal Area Support authorized by the PDC Board on October 14, 2015.
- (e) Authorization to extend Interfund Loans under this resolution shall expire on December 31, 2025.
- (f) No interest will be charged during the term of the Interfund Loans.

**BE IT FURTHER RESOLVED**, that in the event that any Interfund Loan authorized by this resolution remains outstanding for a period of more than 60 days, the Executive Director shall, at the next regularly scheduled meeting of the PDC Board, report to the PDC Board on the status of the loan and on its anticipated repayment; and

**BE IT FURTHER RESOLVED**, that this resolution shall become effective immediately upon its adoption.

Adopted by the Portland Development Commission on January 13, 2016

A handwritten signature in black ink, appearing to read "Gina Wiedrick". The signature is written in a cursive, somewhat stylized font.

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Gina Wiedrick, Recording Secretary

## TERM SHEET FOR PURCHASE OF USPS PROCESSING AND DISTRIBUTION CENTER

### 1. Parties:

1.1. Buyer: Portland Development Commission, the duly authorized urban renewal agency of the City of Portland (PDC).

1.2. Seller: United States Postal Service, an independent establishment of the Executive Branch of the Government of the United States (“USPS”).

### 2. Property: Approximately 13.4 acres and approximately 528,000 square feet of improvements at 715 NW Hoyt Street, Portland, Oregon (the “Property”) The Property currently houses a Processing and Distribution Center and a Retail Facility.

### 3. Overview:

3.1. PDC will purchase the Property for a Purchase Price of \$88 million.

3.2. USPS will purchase a replacement site for its Processing and Distribution Center at the northwest corner of NE Alderwood Road and NE Cornfoot Road, Portland, Oregon (“the Replacement site”) and commence building a replacement facility (“the Replacement Facility”).

3.3. The Closing of the purchase of the Property and the purchase of the Replacement Site shall occur on or before August 1, 2016.

3.4. On and after Closing, PDC will lease the Property back to USPS for the period of time necessary to build the Replacement Facility (approximately two years) (“the Lease”).

3.5. Prior to expiration of the Lease, PDC will locate a satisfactory replacement Retail Facility either on the Property, or within one mile of the Property, and pay for (or have others assume the responsibility to pay for) the replacement Retail Facility.

### 4. Purchase Price:

4.1. The Purchase Price for the Property shall be \$88 million. The entire Purchase Price shall be used by USPS to pay for USPS’s costs of purchasing the Replacement Site, building the Replacement Facility, and relocating its employees and equipment to the Replacement Facility.

4.2. On April 8, 2015, PDC’s Board of Commissioners approved the establishment of a certain escrow account (“the Escrow Account”) to pay certain pre-Closing costs of USPS for identified due diligence on alternative replacement sites and facilities, including contracting for design work

of a Replacement Facility. PDC shall add up to an additional \$400,000 to cover additional pre-closing costs of USPS. All funds deposited by PDC into the Escrow Account prior to Closing shall be applied to the Purchase Price.

4.3. If the total Project costs for purchasing the Replacement Site, building the Replacement Facility and moving employees and equipment to the Replacement Facility ends up to be less than \$157 million, the Purchase Price shall be reduced by an amount equal to 20% of the cost savings, as described in Section 6 below.

5. Purchase of the Replacement Site:

5.1. On or before February 1, 2016, USPS shall enter into an Option Agreement to purchase the Replacement Site. The Option Agreement shall be in form and substance acceptable to PDC.

5.2. Upon satisfaction of the conditions identified in Section 5.3 below, USPS shall pay a non-refundable Option Price of \$2.5 million. Prior to the payment of the Option Price, PDC shall deposit a like amount into the Escrow Account to be applied to the Purchase Price. USPS may use the deposited funds in the Escrow Account to pay the Option Price.

5.3. PDC shall deposit \$2.5 million into the Escrow Account if each of the following conditions have been met:

5.3.1. USPS has obtained conditional internal approval of a total project budget of \$157 million, with approval for USPS to pay up to \$69 million of the cost for purchasing the Replacement Site, building a Replacement Facility, and relocating its employees and equipment to the Replacement Facility.

5.3.2. PDC has received a Report from an independent consultant hired by PDC, in form and substance satisfactory to PDC, opining that the estimate of total project costs of \$157 million is reasonable and sound.

5.3.3. PDC has reviewed and approved the terms of the Option Agreement.

5.3.4. PDC and USPS have executed a definitive Purchase and Sale Agreement for the purchase of the Property, materially in conformance with the provisions of this Term Sheet.

5.3.5. USPS has provided PDC with written confirmation that they have reviewed and approved the following documents, and that they will approve the subsequent independent due diligence reports on the same subjects provided they are materially similar:

5.3.5.1. Preliminary Title Report for the Replacement Site.

5.3.5.2. Existing Environmental Reports on the Replacement Site,

5.3.5.3. Existing Geotechnical Reports on the Replacement Site.

5.3.6. PDC has reviewed and approved the Preliminary Title Report for the Property.

5.3.7. PDC has received reasonable written assurances from USPS that USPS can and will finalize prior to the Closing date, the due diligence described in Section 8 below.

6. Project Budget and Cost Savings:

6.1. The total estimated Project budget is currently \$157 million. This budget includes a 20% contingency.

6.2. If at the end of the project, the actual project costs are less than \$157 million, USPS shall refund PDC in an amount equal to 20% of the cost savings, up to a maximum refund of \$6 million.

6.3. Any increased costs due to USPS initiated change orders to the general construction contract that increase the cost of the Replacement Facility (such as scope changes, acceleration of work changes and/or additive changes) shall not be considered "Project Costs" for the purpose of calculating the actual project costs under Section 6.2 above.

6.4. During construction and relocation, i) USPS shall provide PDC with regular updates and reports as reasonably requested by PDC and ii) USPS and PDC shall meet periodically to discuss any material changes to the Project budget.

7. PDC Conditions to Closing:

7.1. PDC is satisfied with any due diligence it desires to conduct with respect to the Property.

7.2. PDC has agreed with DEQ upon: (i) a Prospective Purchaser Agreement; (ii) an accompanying Remedial Action Plan; and (iii) an accompanying Easement and Equitable Servitude and, if desired by PDC, these have been judicially approved by the applicable Oregon Circuit Court through a Stipulated Order (the "DEQ Documents").

7.3. USPS has bid for the construction work for the Replacement Facility and has entered into a guaranteed maximum price contract of not greater than \$122 million, or if greater, USPS has agreed to increase its budget to pay any excess costs above \$122 million.

7.4. PDC has received satisfactory evidence that USPS has received final approvals to pay for USPS's portion of the Project Costs as estimated at the time of Closing.

7.5. PDC and USPS have agreed upon, and will contemporaneously sign, a Leaseback Agreement for the Property, as described in Section 9 below.

8. USPS Conditions to Closing:

8.1. USPS is satisfied with respect to its due diligence on the Replacement Site, as described in the Option Agreement.

8.2. USPS has obtained all approvals necessary to acquire the Replacement Site and convey the Property to PDC under: The National Environmental Protection Act, the National Historic Preservation Act and the IGN.

8.3. USPS has bid for the construction work for the Replacement Facility and has entered into a guaranteed maximum price contract of not greater than \$122 million.

8.4. USPS has reviewed and approved of the DEQ Documents described in Section 7.2.

8.5. USPS has received final budget approval for the Project.

8.6. PDC and USPS have agreed upon, and will contemporaneously sign, a Leaseback Agreement for the Property, as described in Section 9 below

9. Lease Back Terms:

9.1. From and after Closing, PDC shall Lease the Property back to USPS.

9.2. The term of the Lease for all portions of the Property, other than the Retail portion of the Property, shall end on the date that USPS has completed and moved to the Replacement Facility.

9.3. The term for the Retail portion of the Property shall end on the date that PDC has provided USPS with temporary or permanent replacement retail premises as described in Section 13 below.

9.4. During the term of the Lease, USPS shall pay all costs related to the operation and maintenance of the Property, including but not limited to: utilities, insurance, repairs, maintenance, security, alterations, and replacements.

9.5. USPS shall pay no base rent for the Property for the first 2 ½ years. Thereafter, if USPS has not vacated the non-retail portion of the Property by such date, USPS shall pay base rent equal to the fair rental value of the Property (which is estimated to be approximately \$450,000/month).

10. Closing:

10.1. Closing shall consist of the following: (i) the payment by PDC of the remainder of the Purchase Price; (ii) the closing of the acquisition of the Replacement Site by USPS; (iii) the mutual execution by PDC and USPS of the Lease; (iv) the delivery by USPS of the deed in favor of PDC for the Property.

10.2. Closing shall occur through a mutually acceptable escrow and shall occur on a mutually acceptable date not later than August 1, 2016.

11. Construction of Replacement Facility: USPS agrees to cause the Replacement Facility to be built and obtain a certificate of occupancy for the Replacement Facility as soon as is reasonably possible, subject only to force major events.

12. As Is Sale:

12.1. PDC will acquire the Existing Facility “As Is” subject to USPS’s removal of equipment to be relocated to the Replacement Facility

12.2. USPS shall provide PDC with all documents and reports in its possession related to the condition of the Property and the buildings, including without limitation environmental reports, geotech reports and building condition reports.

13. Replacement Retail Facility:

13.1. PDC agrees to provide USPS with a retail post office facility either on the Property, after redevelopment, or within a one (1) mile radius of the Property.

13.2. The Replacement Retail Facility shall include at least 10,000 gross square feet and access within one (1) block of approximately 37 parking spaces which may include on-street spaces, (the “Replacement Retail Facility”).

13.3. USPS shall not be responsible for the costs of acquiring and building the Replacement Retail Facility. All such costs (estimated at approximately \$4 million) shall be borne by PDC or an assignee developer or property owner.

13.4. In the event that i) the Replacement Retail Facility will be located within the Property, after redevelopment, or ii) A Replacement Retail Facility has been acquired outside the boundaries of the Property, but will not be ready for occupation before anticipated redevelopment, PDC may provide USPS with a temporary Retail Facility, which may include modular buildings.



14. Environmental Conditions:

14.1. PDC agrees to defend, indemnify and hold USPS harmless from any claim, loss, penalty, or liability asserted by third parties or any governmental authority on account of on or off-site environmental contamination due to: (i) the pre-Closing activities of PDC on the site of the Property; (ii) PDC's activities in dealing with soils or ground water on the site of the Property, or (iii) the conduct of purchasers of the Property from PDC in dealing with soils or ground water on the Property.

14.2. The indemnity shall exclude any claims, losses, penalties or liability related to off-site contamination caused by the off-site migration of hazardous materials from the Property that occurred prior to the conveyance of the Property to PDC.

14.3. PDC will agree to include in every subsequent deed conveying any portion of the Property to a third party a waiver, release and covenant not to sue USPS on account of the presence of any hazardous substances within the site of the Property.

14.4. As security for the above indemnity, PDC shall deposit \$3.0 million into an escrow account, subject to a mutually acceptable escrow agreement. The funds shall be deposited into the escrow account prior to PDC commencing any demolition of any portion of the Property including disturbing the asphalt parking and passage ways within the Property. Unless otherwise agreed, USPS need not deliver the Property back to PDC under the Lease prior to the deposit of these funds into escrow. The escrow agreement shall provide for a release of funds back to PDC, on a pro-rata basis based on acreage, when DEQ has confirmed that a site of demolition has been redeveloped in accordance with the DEQ Documents.

15. Development Assurances: PDC shall represent that it is acquiring the Property to redevelop in accordance with public goals established by the PDC Board of Commissioners, after extensive consultation with the Portland City Council and the public.

**RESOLUTION NO. 7163**

**RESOLUTION TITLE:**

AUTHORIZING A PURCHASE AND SALE AGREEMENT WITH THE UNITED STATES POSTAL SERVICE FOR THE ACQUISITION OF 13.4 ACRES OF REAL PROPERTY LOCATED AT 715 NW HOYT STREET IN THE RIVER DISTRICT URBAN RENEWAL AREA FOR \$88,000,000 AND AUTHORIZING AN INTERFUND LOAN AGREEMENT

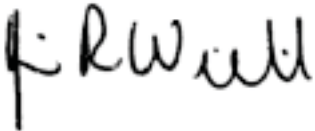
Adopted by the Portland Development Commission on January 13, 2016

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Tom Kelly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Gustavo Cruz, Jr.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Aneshka Dickson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Mark Edlen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner William Myers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consent Agenda		<input checked="" type="checkbox"/> Regular Agenda		

**CERTIFICATION**

**The undersigned hereby certifies that:**

*The attached resolution is a true and correct copy of the resolution as finally adopted at a Board Meeting of the Portland Development Commission and as duly recorded in the official minutes of the meeting.*

	<b>Date:</b>  January 15, 2016
<b>Gina Wiedrick, Recording Secretary</b>	