

PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6839

AUTHORIZING AN AGREEMENT FOR THE DISPOSITION AND DEVELOPMENT OF REAL PROPERTY LOCATED ON THE EAST SIDE OF NE GARFIELD AVENUE BETWEEN NE SUMNER STREET AND NE EMERSON STREET, PARTITION PLAT 2006-136 LOT 1, IN THE OREGON CONVENTION CENTER AND INTERSTATE CORRIDOR URBAN RENEWAL AREAS WITH LISAC BROTHERS CONSTRUCTION, INC.

WHEREAS, the Portland Development Commission (“PDC”), finding it necessary and in the public interest to implement the Oregon Convention Center and Interstate Corridor Urban Renewal Plans, acquired certain real property located on NE Garfield Avenue and more particularly described in the Agreement for Disposition and Development (the “Property”);

WHEREAS, in furtherance of that redevelopment objective, in 2001 PDC initiated a Request for Proposals (“RFP”) process for redevelopment of a multi-block area of which the Property is a portion (collectively, the “Vanport Square Site”);

WHEREAS, in response to the RFP, Vanport Partners, LLC submitted a conceptual proposal for a mixed-use redevelopment of the Vanport Square Site that included retail, office, and housing components, and was selected in December of 2001 to be the developers for the project;

WHEREAS, PDC and Vanport Partners, LLC entered into a Disposition and Development Agreement dated April 14, 2006, for the first phase of the project on the Vanport Square Site, which was successfully completed in March 2008;

WHEREAS, PDC and Vanport Partners, LLC then entered into a Memorandum of Understanding dated December 20, 2006, for the development of the second phase housing project on the eastern portion of the Vanport Square Site located on NE Garfield Avenue between NE Sumner Street and NE Emerson Street;

WHEREAS, Vanport Partners, LLC began predevelopment activities, however the second phase housing project was suspended by mutual agreement between PDC and the Vanport Partners, LLC on September 30, 2009, due to a deteriorating housing market;

WHEREAS, subsequently on February 12, 2010, Lisac Brothers Construction, Inc. and Vanport Partners, LLC approached PDC with a development concept for ten (10) single-family, market-rate houses on the Property (collectively, the “Project”);

WHEREAS, on June 1, 2010, PDC’s Executive Director, based on a recommendation from PDC’s Investment Committee, authorized exclusive negotiations with Lisac Brothers Construction, Inc. for disposition and development of the Property; and

WHEREAS, Vanport Partners, LLC will assist Lisac Brothers Construction, Inc. with public process and community outreach for the Project.

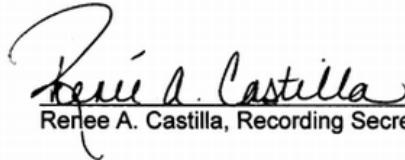
NOW, THEREFORE, BE IT RESOLVED that the Executive Director is hereby authorized to enter into the Agreement for Disposition and Development of Property in the Oregon Convention Center and Interstate Corridor Urban Renewal Areas, with Lisac Brothers Construction, Inc. substantially in the form attached hereto as Exhibit A (the "Agreement");

BE IT FURTHER RESOLVED that the Executive Director may approve changes to the Agreement if such modifications, in the opinion of PDC's General Counsel in consultation with the Executive Director, do not materially change PDC's obligations or risks;

BE IT FURTHER RESOLVED that the Executive Director may approve changes to the Agreement's Schedule of Performance up to 120 days; and

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

Adopted by the Portland Development Commission on December 8, 2010.


Renee A. Castilla, Recording Secretary

AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY

IN THE OREGON CONVENTION CENTER AND

INTERSTATE CORRIDOR URBAN RENEWAL AREAS

BETWEEN

THE PORTLAND DEVELOPMENT COMMISSION

AND

LISAC BROTHERS CONSTRUCTION, INC.

DATED

_____ **2010**

DISPOSITION AND DEVELOPMENT AGREEMENT

This DISPOSITION AND DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered this ___ day of _____, 2010 (the “Effective Date”), by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland (“PDC”) and LISAC BROTHERS CONSTRUCTION, INC., an Oregon corporation (“Developer”). PDC and Developer may be referred to jointly in this Agreement as the “Parties” and individually as a “Party.”

RECITALS

- A. In furtherance of the objectives of Oregon Revised Statutes, Chapter 457, and Chapter XV of the Charter of the City of Portland, PDC has undertaken a program for the development and redevelopment of blighted areas within the city limits and in connection therewith prepared and approved an Urban Renewal Plan for the Interstate Corridor Urban Renewal Area (the “ICURA”), which was approved by the City Council of the City on August 23, 2000 and an Urban Renewal Plan for the Oregon Convention Center Urban Renewal Area (the “OCCURA”), which was approved by the City Council of the City on _____ (as amended from time to time, collectively, the “Urban Renewal Plans”);
- B. Copies of the Urban Renewal Plans, as amended, as constituted on the date hereof have been recorded in the real property records of Multnomah County, Oregon, and are by this reference made a part hereof;
- C. PDC, finding it necessary and in the public interest to implement the Urban Renewal Plans, acquired certain real property located at _____ and more particularly described in Exhibit A attached hereto (the “Property”) within the URA for redevelopment;
- D. In furtherance of that redevelopment objective, in 2001, PDC initiated a Request for Proposals (“RFP”) process for redevelopment of a multi-block area of which the Property is a portion (collectively, the “Vanport Square Site”);
- E. In response to the RFP, Vanport Partners submitted a conceptual proposal for a mixed use redevelopment of the Vanport Square Site that included retail, office and housing components and was selected in December of 2001 to be the developers for the project;
- F. As a result, PDC and Vanport Partners entered into that certain a Disposition and Development Agreement dated April 14, 2006 for the first phase of the project on the Vanport Square Site which was successfully completed in March 2008;
- G. PDC and Vanport Partners then entered into a Memorandum of Understanding dated December 20, 2006 for the development of the second phase of the project that was intended to be ten to sixteen, market rate housing unit. Property Site. Vanport Partners began predevelopment activities on the Site; however; the second phase project was suspended by mutual agreement between PDC staff and the Vanport Partners on September 30, 2009 due to a deteriorating housing market;
- H. Subsequently on February 12, 2010, Developer and Vanport Partners approached PDC with a development concept for ten (10) single family, market-rate houses (each, a “Unit”) on the Property (collectively, the “Project” as further defined herein and in the Scope of Development attached hereto as Exhibit F). On June 1, 2010, PDC’s Executive Director, based on a recommendation from PDC’s Investment Committee, authorized to

exclusive negotiations with Developer for disposition and development of the Property. Vanport Partners will assist Developer with public process and community outreach for the Project;

- I. The completion of the Project according to the terms of this Agreement, including the Scope of Development and the Schedule of Performance (as hereinafter defined), is a material inducement to PDC to enter into this Agreement; and
- J. PDC finds that the fulfillment, generally, of this Agreement, and the intentions set forth herein, are in the vital and best interest of the City and the health, safety, and welfare of its residents, and are in accord with the public purposes and provisions of the applicable state and federal laws and requirements under which the Urban Renewal Plans were adopted.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, and the conditions, covenants and agreements contained herein including the foregoing recitals, the Parties hereby agree as follows:

1. DEFINED TERMS

Words that are capitalized, and which are not the first word of a sentence, are defined terms. A defined term has the meaning given it when it is first defined in this Agreement. Some defined terms are first defined in the text of this Agreement and some are first defined in Exhibit B, which is a glossary of defined terms not defined in the text of this Agreement. Defined terms may be used together and the combined defined term has the meaning of the combined defined terms. A defined term that is a noun may be used in its verb or adjective form and vice-versa. If there is any difference between the definition of a defined term in the text of this Agreement and a definition of that term in Exhibit B, the definition in the text controls. Defined terms may be used in the singular or the plural.

2. GENERAL TERMS OF CONVEYANCE

2.1. Agreement for Disposition and Development. PDC agrees to sell and convey to Developer, and Developer agrees to purchase from PDC and develop the Property upon the terms and conditions set forth in this Agreement.

2.2. Description of the Property. The Property which is subject to this Agreement collectively consists of the following: The land located at [**Street Address**], Portland, Oregon, as more particularly described in Exhibit A attached hereto (the "Land"), together with (i) all rights, privileges, licenses, and easements appurtenant to the Land owned by PDC, including, without limitation, all minerals, oil, gas, and other hydrocarbon substances on and under the Land, as well as development rights, air rights, water rights related to the Land, and any other easements, rights-of-way, or appurtenances used in connection with the beneficial use and enjoyment of the Land; and (ii) all improvements, equipment, fixtures or other personal property of every kind located on the Land, including, without limitation all buildings and structures presently located on the Land, all apparatus, equipment and appliances used in connection with the operation or occupancy of the improvements and fixtures.

2.3. Earnest Money Deposit. Within ten (10) days of the Effective Date, Developer shall deposit with _____ (the "Escrow Agent") the amount of TEN

THOUSAND DOLLARS (\$10,000) (the "Escrow Deposit") to secure Developer's obligations under this Agreement. The Escrow Deposit shall be fully refundable to Developer, except as provided below. The Escrow Agent will invest the Escrow Deposit in a federally insured, interest-bearing account. The accrued interest will be treated as part of the Escrow Deposit and shall be disbursed pursuant to the terms of this Agreement and the Escrow Instructions (as hereinafter defined).

2.4. Purchase Price. The purchase price for the Property is TWO-HUNDRED SIXTY THOUSAND DOLLARS (\$260,000.00) (the "Purchase Price").

2.5. Payment of the Purchase Price. On the Closing Date (as hereinafter defined) the Purchase Price, subject to a credit for the Escrow Deposit and subject to the adjustments specified herein, shall be paid by Developer in immediately available funds.

2.6. Prorations and Costs.

2.6.1. Closing Costs. The costs for recording a Memorandum of this Agreement, a form of which is attached as Exhibit I, shall be paid by PDC. The costs for recording the Deeds and any other documents required by Developer to be recorded will be paid by Developer. Each Party shall pay one-half (1/2) of any escrow fees charged by Escrow Agent. All other Closing costs, if any, shall be allocated in accordance with the customary practice in Multnomah County.

2.6.2. Prorations of Taxes. All property taxes attributable to the year in which the Closing occurs shall be prorated and adjusted as of the Closing Date as an adjustment at the Closing (regardless of whether such taxes and special assessments are then due and payable or delinquent). PDC agrees that any taxes, assessments and encumbrances that will be a lien against the Property at the Closing, whether or not those charges would constitute a lien against the Property at settlement, shall be satisfied by PDC. If PDC shall fail to do so, Developer may pay any such tax, assessment, encumbrance or other charge and deduct an amount equal to any such payment from the Purchase Price of the Property. Regular real property taxes payable during the year in which the Closing occurs and any rents or income applicable to the Property shall be prorated as of the Closing Date. PDC shall pay any property taxes accruing to the Property as a result of the transfer of the Property from public ownership, and therefore the change of the Property's status from tax exempt to taxable. In addition, the Developer shall pay property taxes on the Property from and after the Closing.

2.6.3. Utilities. PDC shall cause all meters for electricity, gas, water, sewer or other utility usage at the Property, if any to be read on the Closing Date and PDC shall pay all charges for such utility charges which have accrued on or prior to the Closing Date. If the utility companies are unable or refuse to read the meters on the Closing Date, all charges for such utility charges to the extent unpaid shall be prorated and adjusted as of the Closing Date based on the most recent bills therefore.

2.6.4. Other Prorations and Costs. Except as otherwise provided herein, all other items to be prorated, including rents, operating expenses, revenues, and other income, if any, shall be prorated as of the Closing Date. For the purpose of calculating prorations, the Developer shall be deemed to be entitled to the Property and, therefore, entitled to the income and responsibility for the expenses for the entire day following the Closing Date. PDC shall pay any and all special assessments in full, whether or not annual installments are

permitted. Developer and the PDC shall each pay their own legal and professional fees of other consultants incurred by Developer and PDC, respectively.

2.7. Access, Inspection and Due Diligence Materials

2.7.1. Access and Inspection. PDC agrees that Developer and its authorized agents or representatives shall be entitled to enter upon the Property to make such investigations, studies and tests as Developer deems necessary or advisable, as more specifically set forth in the form of Permit of Entry attached hereto as Exhibit L (the "Permit of Entry").

2.7.2. Due Diligence Materials. PDC agrees to provide Developer (a) a Preliminary Title Report or Reports covering the Property, and exception documents referenced in the Preliminary Title Report or Reports (collectively, the "Preliminary Title Report") within ten (10) days of the Effective Date; (b) copies of all the reports listed on Schedule 5.1.13 within ten (10) days of the Effective Date; (c) to the extent not included on Schedule 5.1.13, copies of all studies, reports, site analyses, engineers certificates, existing surveys, existing title insurance policies, contracts, leases, licenses and permits with respect to the Property that PDC has in its possession, or that it has access to, including, without limitation, (i) any site analyses with respect to oil, asbestos, underground storage tanks, Hazardous Materials, lead paint, or lead plaster; or (ii) any reports regarding compliance with laws (including, but not limited to, ADA, zoning and all other land use matters) (collectively, the "Due Diligence Materials"). Unless otherwise indicated, during the Feasibility Period (as hereinafter defined), PDC agrees to make such items available to Developer and Developer's agents, at reasonable times at the mutual convenience of Developer and PDC.

2.7.3. Feasibility Period. Developer shall notify PDC no later than eighteen (18) months after Effective Date (the "Feasibility Period") of the results of its due diligence. In the event that Developer's due diligence shall reveal any matters which are not acceptable to Developer, in Developer's sole discretion may elect, by written notice to PDC, on or before 5:00 p.m. on the expiration of the Feasibility Period, not to proceed with the transaction contemplated herein, in which event this Agreement shall be null and void without recourse to either Party hereto. In the event that Developer's due diligence shall reveal that environmental clean-up of the Property is deemed necessary, Developer and PDC may negotiate a reduction in the Purchase Price to cover the costs associated with such environmental clean-up. PDC shall have the right to review and audit Developer's environmental clean-up due diligence and remediation proposals. In the event Developer and PDC are unable to negotiate a reduction in the Purchase Price to cover the costs associated with such environmental clean-up, this Agreement shall be terminated and null and void without recourse to either Party hereto and the Earnest Money shall be refunded to Developer.

2.8. Title Review.

2.8.1. Within ten (10) days after the Effective Date, PDC will deliver to Developer a preliminary title report on the Property and copies of all exception documents (the "Title Report"). Developer will have twenty (20) days after receiving the Title Report to notify PDC in writing if Developer objects to any item in the Title Report. Those items to which Developer does not object are "Permitted Exceptions". If Developer objects to any item, then PDC shall have twenty (20) days after receiving Developer's written objection to notify Developer in writing of its intention to remove or not remove the objected to exceptions to title prior to Closing. If PDC does not respond to Developer's objections within the twenty (20) day time period or if PDC refuses to remove any such objected to

exceptions, Developer shall have twenty (20) days to terminate this Agreement by written notice to PDC. If Developer terminates this Agreement under this section, no remedies shall accrue to either Party and all rights and obligations of the Parties under this Agreement shall terminate other than the obligation to cooperate in preparing, executing and recording such documents as may be necessary or desirable to reflect the termination of this Agreement in the real property records of Multnomah County. If this Agreement is not so terminated, the Permitted Exceptions shall also include those exceptions, if any, that Developer originally objected to and that PDC refused to remove or failed to respond to.

2.8.2. Developer may obtain an update to the Title Report on the Property at any time prior to the Closing. Developer shall promptly give to PDC a copy of any updated Title Report. Within twenty (20) days after receiving an updated Title Report, Developer shall give PDC notice, in writing, of any objections to the exceptions (that are not Permitted Exceptions) to title that appear on the updated Title Report. Within twenty (20) days of Developer's written notice to PDC described in the preceding sentence, PDC shall notify Developer in writing of its intention to remove or not remove the objected to exceptions to title prior to Closing. If PDC does not give its response to Developer's objections within the twenty (20) day time period or if PDC refuses to remove any such objected to exceptions, Developer shall have twenty (20) days to terminate this Agreement by written notice to PDC. If this Agreement is not terminated in accordance the exceptions that Developer objected to and that PDC refused to remove or failed to respond to will be included as Final Permitted Exceptions. Any exceptions that Developer accepts at Closing are the Final Permitted Exceptions.

2.9. Title Insurance. PDC, at its expense, shall cause the Escrow Agent to provide Developer with a standard coverage Owner's Policy of Title Insurance, issued by Escrow Agent, covering the Property when conveyed, and insuring Developer in the amount of the Purchase Price, free and clear of encumbrances, except Final Permitted Exceptions. Developer, at its option and its expense, may elect to obtain extended coverage under such policy of title insurance and PDC agrees to execute any affidavits or other documents reasonably required by the Escrow Agent to enable Developer to obtain such coverage. Developer may also elect to obtain a survey at its own expense.

3. REPRESENTATIONS AND WARRANTIES

3.1. PDC Representations and Warranties. PDC's representations and warranties under this Agreement are limited to the following. PDC hereby warrants and represents to Developer as of the Effective Date and as of the Closing Date the following:

3.1.1. PDC has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated herein; and all requisite action has been taken by PDC in connection with entering into this Agreement, the instruments referred to herein, and the consummation of the transactions contemplated herein.

3.1.2. To PDC's knowledge, except as has been disclosed to Developer in the Environmental Due Diligence Reports, PDC has not generated, manufactured, refined, transported, treated, stored, handled, disposed, transferred, Released or produced Hazardous Substances on or under the Property, and no underground storage tanks exist on the Property, except in compliance with Environmental Laws currently in effect, and PDC has not received notice of the Release of any Hazardous Substances on the Property.

- 3.1.3. PDC is not a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.
 - 3.1.4. To PDC's knowledge, there is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending or threatened, which may affect the Property, or PDC's ability to perform its obligations under this Agreement;
 - 3.1.5. To PDC's knowledge, except as otherwise disclosed in writing to Developer before the Effective Date, during PDC's ownership of the Property, the Property has been operated in compliance with all applicable laws, rules, regulations, ordinances and other governmental requirements (“Laws”).
 - 3.1.6. To PDC's knowledge, PDC has not received any notice stating that the Property is in violation of any applicable laws, rules, regulations, ordinances or other governmental requirements.
 - 3.1.7. To PDC's knowledge, utility connections are available to the Property.
 - 3.1.8. PDC is the legal and beneficial fee simple titleholder to the Property and, to PDC's knowledge, the Property is free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, or judgments, except as disclosed by the Title Report.
 - 3.1.9. This Agreement and all documents required to be executed by PDC are and shall be valid, legally binding obligations of and enforceable against PDC in accordance with their terms.
 - 3.1.10. Neither the execution and delivery of this Agreement and documents referred to herein, nor the incurring of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referred to herein conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which PDC is a party.
 - 3.1.11. No representation, warranty or statement of PDC in this Agreement or any of the exhibits attached hereto contains any untrue statement of a material fact or omits a material fact necessary to make the representation, warranty or statement not misleading.
 - 3.1.12. The persons executing this Agreement and the instruments referred to herein on behalf of PDC have the legal power, right and actual authority to bind PDC to the terms and conditions of this Agreement.
- 3.2. Developer Representations and Warranties.** Developer's representations and warranties under this Agreement are limited to the following. Developer hereby warrants and represents to PDC as of the Effective Date and as of the Closing Date the following:
- 3.2.1. [Name] and [Name] are the sole officers of the Developer.
 - 3.2.2. Developer has full power and authority to enter into and perform this Agreement in accordance with its terms and does not require the consent of any third party that has not been secured, and all requisite action (corporate, trust, partnership, membership or

otherwise) has been taken by PDC in connection with entering into this Agreement, the instruments referred to herein, and the consummation of the transactions contemplated herein. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority or other party is required.

- 3.2.3.** This Agreement and all documents required to be executed by Developer are and shall be valid, legally binding obligations of and enforceable against Developer in accordance with their terms.
- 3.2.4.** Neither the execution and delivery of this Agreement and documents referred to herein, nor the incurring of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referred to herein conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which Developer is a party.
- 3.2.5.** No representation, warranty or statement of Developer in this Agreement or any of the exhibits attached hereto contains any untrue statement of a material fact or omits a material fact necessary to make the representation, warranty or statement not misleading.
- 3.2.6.** Developer enters into this Agreement without reliance on verbal representations by PDC, its employees, agents or consultants, regarding any aspect of the Property, the Project, its feasibility, financing, or compliance with any governmental regulation.
- 3.2.7.** As of the Effective Date, Developer is not in default under this Agreement and no event has occurred that, with the passage of time or the giving of notice or both, would constitute a default of Developer under this Agreement.
- 3.2.8.** The persons executing this Agreement and the instruments referred to herein on behalf of Developer have the legal power, right and actual authority to bind Developer to the terms and conditions of this Agreement.

4. CONDITIONS PRECEDENT TO CLOSING

4.1. Conditions. Developer and PDC are not obligated to proceed with the conveyance of the Property to the Developer unless the following conditions are satisfied prior to Closing. The Party benefited by a particular condition shall not unreasonably withhold, condition, or delay acknowledgment that the condition has been satisfied.

4.1.1. The following events have occurred:

- (i)** Title Company is prepared to issue to Developer the form of Title Insurance selected by Developer under Section 2.9, covering the Property in the amount of the purchase price (Developer may elect to purchase additional coverage at its own expense), subject only to the Final Permitted Exceptions; and
- (ii)** PDC has caused completion of the Phase I Environmental Assessment, subject to Section 8 of this Agreement.
- (iii)** Developer shall have caused the subdivision of the Property into ten (10) separate parcels on which each Unit will be constructed (each, a "Parcel"). PDC will cooperate at no cost to PDC in facilitating the subdivision of the

Property and recording of the plat, including but not limited to, signing all required applications, permits, plats, etc.

4.1.2. To the reasonable satisfaction of both PDC and Developer:

- (i) Both the Design Development Drawings and Final Construction Plans and Specifications have been approved by all required governmental entities and/or agencies, subject to Section 7 of this Agreement.
- (ii) All land use approvals and permits for the Project required by Title 33 of the Code of the City of Portland shall have been secured and no appeal of any required approval or permit shall have been filed, and the time for any such appeal shall have expired. If an appeal was filed, it shall have been finally resolved.
- (iii) All financing necessary to construct the Project has closed or will close simultaneously with the Closing.
- (iv) No litigation is pending that prevents PDC or Developer from performing their respective obligations under this Agreement.
- (v) The NFA Letter, issued by DEQ with respect to the Property is in form and substance acceptable to the Parties.
- (vi) The Parties shall have agreed to the final form of Bargain and Sale Deed that will convey each Parcel to Developer, substantially in the form attached hereto as 1.Exhibit C (each, a “Deed” and collectively, the “Deeds”).

4.1.3. To Developer’s reasonable satisfaction:

- (i) PDC is not in default under this Agreement and no event has occurred that, with notice or passage of time or both notice and passage of time, would constitute a default of PDC under this Agreement.
- (ii) No material adverse change in the physical or legal condition of the Property has occurred.

4.1.4. To PDC’s reasonable satisfaction:

- (i) PDC has received documentation indicating that the City of Portland Bureau of Development Services is ready to issue the building permits that are required to construct the Project, subject only to Developer’s ownership of the Property and payment of permits.
- (ii) Developer has provided to PDC documentation that:
 - (a) Developer is a corporation qualified to do business in the state of Oregon;
 - (b) The Articles of Incorporation and Bylaws of Developer have not been altered since the Effective Date in any manner that may adversely affect PDC’s interests after the Closing;
 - (c) Developer has full power and authority to enter into and perform its obligations under this Agreement; and
 - (d) This Agreement has been executed and delivered, for and on behalf of Developer, by an authorized individual.
- (iii) PDC has approved the Final Project Budget.
- (iv) Developer has demonstrated financial feasibility for the Project, consistent with the Final Project Budget, by providing to PDC copies of binding commitment letters from private lenders for the construction financing for

- the Project;
- (v) Developer is not in default under this Agreement and no event has occurred that, with notice or passage of time or both notice and passage of time, would constitute a default of Developer under this Agreement.
 - (vi) Developer shall have entered into, or shall be prepared to enter into at Closing, the Compliance Agreement described in Section 7.4.

4.2. Elections upon Non-Satisfaction of Conditions. If any condition in this Section 4 is not fulfilled to the reasonable satisfaction of the benefited Party or Parties as of the Closing Date (or such later date, if any, designated pursuant to Section 4.2(c) below or determined in accordance with Section 15.8.2), then such benefited Party or Parties may elect to:

- (a) Terminate this Agreement by and effective upon written notice to the other Party; or
- (b) Waive in writing the benefit of that condition and proceed in accordance with the terms hereof; or
- (c) Designate in writing a later date for the Closing, to allow additional time for the condition to be satisfied, if the condition can be satisfied and the other Party agrees in writing to the later date.

4.3. Final Termination Date. If all of the conditions precedent to the Closing set forth in Section 4 have not been satisfied or waived by the later of (a) the date scheduled for the Closing as set forth in the Schedule of Performance or (b) such later date, if any, designated pursuant to Section 4.2(c) or determined in accordance with Section 15.8.2, then this Agreement shall terminate sixty (60) days after written notice from the Party seeking termination unless the specified condition shall have been satisfied or waived and Closing shall have occurred within such 60-day period.

4.4. Effect of Termination for Non-Satisfaction of Conditions Precedent to Closing. If this Agreement terminates or is terminated for non-satisfaction of the conditions precedent to the Closing and neither Party is in default under this Agreement, then all rights and obligations of the Parties under this Agreement shall terminate upon termination of this Agreement other than the obligation to cooperate in preparing, executing and recording such documents as may be necessary or desirable to reflect the termination of this Agreement in the real property records of Multnomah County. If a Party is in default under this Agreement on the date this Agreement terminates or is terminated for non-satisfaction of the conditions precedent to Closing, then the rights and remedies accruing to the other Party under this Agreement as a result of such default shall survive termination of this Agreement.

5. CLOSING

5.1. Manner of Closing.

- 5.1.1.** The Closing of the purchase and sale of the Property will occur in an escrow to be administered by the Escrow Agent.
- 5.1.2.** The Parties agree to provide the Escrow Agent with escrow instructions consistent with the terms of this Agreement.

5.1.3. On the Closing Date, the Escrow Agent shall deliver or cause to be delivered the sums and documents pursuant to the Escrow Instructions. In the event that the Escrow Agent cannot, or refuses to, handle this transaction, the Parties shall appoint an escrow company mutually satisfactory to the Parties, which is licensed in the state of Oregon.

5.2. Closing Date.

5.2.1. The Closing Date shall occur on or before the date that is forty-five (45) days after the expiration of the Feasibility Period (the "Closing Date").

5.2.2. The Closing Date may not be extended without the consent of both Parties.

5.3. Conveyance by Deed. Subject to satisfaction of the Conditions Precedent to Closing set forth above and upon Developer's payment to PDC of the Purchase Price, at the Closing PDC will convey the Property to the Developer by the Deeds.

5.4. Documents to Be Deposited Into Escrow by PDC. On or before the Closing Date, PDC shall deposit into Escrow all of the following:

5.4.1. Duly executed and acknowledged Deeds for each Parcel;

5.4.2. An original certificate of non-foreign person duly executed by PDC and notarized.

5.4.3. Such documents as the Escrow Agent may require to establish the authority of PDC to complete the sale of the Property as contemplated by this Agreement, and to issue title insurance in the form required by Developer.

5.4.4. Such documents as the Escrow Agent may require to complete the sale of the Property as contemplated by this Agreement.

5.5. Documents and Sums to Be Deposited Into Escrow by Developer. On or before the Closing Date, Developer shall deposit into Escrow such funds (by wire transfer) as are necessary to complete payment of the Purchase Price in accordance with Section 2.3 of this Agreement and to pay Developer's portion of the Closing costs. Developer shall also deposit into Escrow the following:

5.5.1. Such documents as the Escrow Agent may require to complete the sale of the Property as contemplated by this Agreement.

6. INFRASTRUCTURE, UTILITIES AND LAND CONDITION

6.1. Infrastructure Improvements. As part of the Project, Developer, at its own cost except as otherwise provided herein, will design, construct, fund and obtain permits for all Infrastructure.

6.2. Site Preparation. As part of the Project, Developer will, at its own cost, complete all necessary site preparation in accordance with the Schedule of Performance.

6.3. Utility Service. As part of the Project, Developer shall install, connect, and upgrade new and existing utilities necessary to serve the Project.

6.4. Subsurface, Surface and Building Conditions. PDC shall convey the Property to Developer, and Developer shall accept the Property, in "AS IS" condition on the Closing Date, without

warranty of any kind except as otherwise specifically set forth in this Agreement. In particular, PDC makes no warranties or representations that the soil conditions, Environmental Conditions or any other conditions of the Property or structures thereon are suitable for any improvements, except as specifically set forth in this Agreement. Developer acknowledges that it has not relied on any verbal representations made by the PDC as to the soil conditions, Environmental Conditions or any other conditions of the Property. Developer acknowledges that it has had free access to PDC's records with respect to the condition of the Property, specifically including the Environmental Due Diligence Reports, which are attached as Exhibit J.

7. DEVELOPMENT

7.1. Project Financing.

Developer will be responsible for obtaining from third parties all funds and financing necessary to acquire the Property and construct and operate the Project. The Parties anticipate that the Project financing will be structured generally as shown in the Project Budget. The Parties acknowledge and agree that the Project Budget is only a projection and that a number of factors may change this projection including interest rates, lender requirements, market shifts, and the soft and hard development costs.

7.2. Plans, Drawings and PDC Design Review and Approval.

7.2.1. PDC Design Review and Approval. The Scope of Development is described in Exhibit E. On or before the Effective Date, Developer will have submitted, and PDC will have approved, the Preliminary Design Documents for the Project that are the basis for entering into this Agreement (collectively, the "Drawings"). Developer shall prepare Design Development Drawings and Construction Drawings and Technical Specifications for the Project in accordance with the Schedule of Performance for the building permit process of the appropriate bureaus or agencies within the City.

7.2.2. RESERVED

7.2.3. RESERVED

7.2.4. Changes in Approved Drawings. The Developer shall submit to PDC for review any substantial changes to the Drawings. A substantial change shall mean any change that would have a material impact on the function, appearance or cost of the Project. Developer acknowledges that it may be required to secure separate City approval of such changes. Any separate City approvals shall be sought after PDC has approved the changes. PDC shall assist Developer throughout any City permitting process of the appropriate bureaus or agencies within the City, but PDC does not represent or warrant that its assistance will guarantee approval.

7.2.5. Community Input. PDC and Developer have coordinated on outreach efforts regarding the Project and its design. It is expected that if Developer changes the design of the Project in a material way from that presented to the neighborhood association, or other identified stakeholder, Developer will present the revised Project design to the foregoing groups for their input and advice.

7.3. Diligent Completion. Subject to the terms and conditions of this Agreement (including any Unavoidable Delay as defined in Section 15.8), Developer covenants to complete the

development of the Project in substantial conformance with the final Construction Drawings and Technical Specifications and in accordance with the Schedule of Performance. Developer shall complete development of the Project no later than the date for completion of construction set forth in the Schedule of Performance. Developer agrees to keep PDC informed of its progress with respect to development of the Project during construction, with periodic reports to be issued no less frequently than once a month until PDC issues the Certificate of Completion for the last Unit of the Project.

7.4. Oregon Prevailing Wage Law. Developer shall not use \$750,000 or more in “funds of a public agency,” as that phrase is used in ORS 279C.800 to 279C.870 and the administrative rules adopted thereunder (the “Oregon Prevailing Wage Law”), for the Project without the prior written consent of PDC and amendment of this Agreement, as PDC determines necessary or desirable in its sole discretion, to implement compliance with the Oregon Prevailing Wage Law in the construction of the Project. For purposes of determining whether the \$750,000 trigger has been reached, the funds provided by all public agencies for the Project shall be aggregated.

7.5. Inspection and Property Access.

7.5.1. Before Closing. Before Closing, PDC shall allow Developer and/or Developer’s employees, agents and consultants to enter upon the Property in reasonable furtherance of the transaction contemplated in this Agreement pursuant to a written permit of entry.

7.5.2. After Closing. After Closing, during construction of the Project, and until the final Certificate of Completion is issued for the Project, Developer’s work shall, upon reasonable notice, be accessible at all reasonable times for inspection by representatives of PDC. PDC agrees not to interfere with the work occurring on the Property.

7.6. Safety Matters and Indemnification. Developer shall:

7.6.1. Safety. Comply with all safety laws and take all safety measures necessary to protect its employees and PDC’s employees, agents, contractors, subcontractors, licensees and invitees, their personal property, and improvements of each, from injury or damage caused by or resulting from the performance of its construction.

7.6.2. Indemnity from Liability Claims. Indemnify, defend (at PDC’s request) and hold harmless PDC, and its successors and assigns, from and against all claims, costs, expenses, losses, damages and liabilities whatsoever arising from or in connection with the death of, or injury, loss or damage whatsoever caused to, any person or to the property of any person during the process of the construction work or the performance of Developer’s other obligations under this Agreement, except to the extent caused solely by PDC. The indemnity set forth in this Section 7.6.2 shall survive the issuance of the Certificate(s) of Completion and any termination of this Agreement.

7.6.3. Indemnity from Liens. Indemnify, defend (at PDC’s request) and hold harmless PDC, and its successors and assigns, from and against all claims, costs, expenses, losses, damages and liabilities whatsoever arising from or in connection with any mechanics’, materialmen’s, laborers’ or other construction or statutory liens filed against any portion of the Property or the Project or arising from or related to construction on the Property or the Project performed by or at the request of Developer or Developer’s contractors or agents. The indemnity set forth in this Section 7.6.3 shall survive the issuance of the Certificate(s) of Completion and any termination of this Agreement.

7.7. Liens. If any statutory lien shall be filed prior to PDC's issuance of a Certificate of Completion against any portion of a Parcel by reason of labor, services or materials supplied to or at the request of Developer or Developer's contractors or agents or in connection with any construction on a Parcel, Developer shall, within thirty (30) days after the filing thereof, take whatever action is necessary and proper (including posting a bond or a cash deposit and taking such further action as may be required by the Oregon Construction Lien Law), so that the Parcel shall thereafter be entirely free of the lien. Alternatively, Developer may elect to leave the lien of record and to contest its validity, amount or applicability by appropriate legal proceedings, but only if Developer shall, within the 30-day period following the filing of the lien, furnish an indemnity against such lien in an amount and form satisfactory to induce the title insurance company which insured title to the Parcel to insure over such lien or to reissue or update its existing policy, binder or commitment without showing any title exception by reason of such lien; provided, further, that in such event, (i) Developer shall indemnify and hold harmless PDC from all loss, damage, liability, expense or claim whatsoever (including attorneys' fees and other costs of defending against the foregoing) resulting from the assertion of any such lien, and (ii) in the event such legal proceedings shall be finally concluded (so that no further appeal may be taken) adversely to Developer, Developer shall within fifteen (15) days thereafter cause the lien to be discharged of record.

7.8. Compliance with Laws and Use Restrictions. Developer will comply with, or cause the Project to comply with, all laws, ordinances, statutes, rules, regulations, orders, injunctions, or decrees of any government agency or instrumentality applicable to Developer, the Project, or the operation thereof, including, without limitation:

7.8.1. All applicable health and safety, environmental, and zoning laws, and

7.8.2. All requirements or restrictions pertaining to the construction, use, occupancy or operation of the Project arising from the original source of any funds used by Developer to complete the Project.

7.9. Certificate of Completion.

7.9.1. When Developer is Entitled to Certificate of Completion. Upon substantial completion of each Unit of the Project as described in this Section 7.9 on or before the date for completion of the construction set forth in the Schedule of Performance and provided Developer is not in default under this Agreement, PDC will furnish Developer with a Certificate of Completion for such Unit. Each Unit will be deemed to be substantially complete when:

- i.** PDC determines that the Unit is complete according to the Preliminary Design Documents, except for punch-list items that do not materially affect the use of the Unit for the purposes intended under this Agreement;
- ii.** The City has issued a temporary or permanent building permit final with respect to the Unit,

7.9.2. Form and Effect of the Certificate of Completion. Each Certificate of Completion shall be substantially in the form of Exhibit G and in a form that can be recorded in the real property records of Multnomah County. The Certificate of Completion for each Parcel shall provide for termination of obligations under this Agreement and limitation of remedies of PDC as expressly provided for in the Certificate of Completion. At

Developer's request, the Certificate of Completion for each Parcel shall state which terms and conditions of this Agreement are of no further force and effect.

7.9.3. Procedure Where PDC Refuses to Issue. If PDC refuses or fails to provide a Certificate of Completion in accordance with this Section 7.9, then PDC, within thirty (5) days after written request by Developer for such Certificate of Completion, shall provide Developer with a written statement indicating in detail in what respects Developer has failed to complete the Unit on its respective Parcel in accordance with the provisions of this Agreement or is otherwise in default and what measures or acts Developer must take or perform to obtain such Certificate of Completion. PDC's failure to furnish Developer with such detailed written statement within such thirty (5) day period shall be deemed PDC's approval of Developer's request for the Certificate of Completion.

8. ENVIRONMENTAL CONDITION OF THE PROPERTY AND PARTIES' RESPONSIBILITIES

8.1. RESERVED

9. ASSIGNMENT AND TRANSFER PROVISIONS

9.1. Restrictions on Transfer of the Property and Assignment of the Agreement Prior to Issuance of Certificate of Completion. Because it is a municipal entity, PDC is uniquely benefited by completion of the Project. Developer is uniquely qualified to construct and manage the Project. The anti-assignment provisions of this Section 9 are reasonable and necessary to provide to each Party the benefit of the transaction implemented through this Agreement.

9.1.1. Except as provided in Section 9.2, Developer shall not partially or wholly transfer or dispose of or agree to transfer or dispose of the Property, the Project, or Developer's interest in this Agreement without the prior written approval of the PDC, which may be withheld in PDC's sole discretion. Without limiting PDC's discretion to withhold its approval in any event, PDC is unlikely to approve a transfer or disposition if (a) the transfer or disposition violates another provision of this Agreement, (b) the proposed transferee does not possess qualifications and financial capacity equal to or superior to that of Developer, or (c) the transfer or disposition will cause a material delay in completion of the Project.

9.1.2. _____ ("Developer's Principals") shall retain a controlling ownership interest in the Developer and retain control of the operations of the Developer.

9.2. Approved Transfers Prior to Issuance of Certificate of Completion. Notwithstanding Section 9.1 above, and provided that Developer provides PDC with copies of all agreements related to the transfer at least fifteen (15) days prior to the effective date of the proposed transfer, and any other information reasonably necessary for PDC to determine whether such transfer complies with the requirements of this Agreement, PDC hereby consents to:

9.2.1. An assignment of Developer's rights under this Agreement and interest in the Property (which interest will remain subject to the terms and conditions of this Agreement) to a partnership, limited liability company or limited partnership provided that the owners of the assignee are the same as the owners of Developer and that Developer's Principals hold a controlling ownership interest in the assignee, are the managing members or general

partners of such assignee and retain control of the operations of the assignee. Notwithstanding an assignment under this Section 9.2.1, Developer shall remain fully responsible to PDC for performance of this Agreement.

9.2.2. Any Mortgage, including any assignment of rights under this Agreement to any Mortgagee.

9.3. Transfers After Issuance of a Certificate of Completion. After PDC's issuance of a Certificate of Completion for a Parcel, Developer may transfer or dispose of the Parcel or Developer's interest in this Agreement without the consent or approval of PDC.

10. COMPLIANCE WITH PDC POLICIES

10.1. Construction Wage Policy. PDC's Construction Wage Policy is not applicable to the Project.

10.2. Business and Workforce Equity Policy. PDC's Business and Workforce Equity Policy is not applicable to the Project.

10.3. Green Building Policy. PDC's Green Building Policy is not applicable to the Project.

10.4. EEO Certification. Developer shall comply with the City's EEO Certification Program by including provisions in its contract with its General Contractor that require the General Contractor to comply with the EEO Certification Program and otherwise causing its General Contractor, and the subcontractors thereof, to comply with the EEO Certification Program. Developer shall also comply with all portions of the EEO Certification Program applicable directly to Developer and with all applicable provisions of Federal or state statutes and regulations and City ordinances concerning equal employment opportunities for persons engaged in the Project. The failure of Developer or Developer's General Contractor, or the subcontractors thereof, to comply with the EEO Certification Program or other applicable equal employment opportunity law shall constitute a breach of a material provision of this Agreement. The EEO Certification Program is set forth in Attachment C of the Fair Contracting and Hiring Guideline Index.

11. COMPLIANCE WITH OTHER PDC POLICIES

11.1. Public Participation Plan. PDC and Developer shall formulate and implement a Public Participation Plan consistent with PDC's Public Participation Policy. The Public Participation Plan will serve to create a communication protocol, establish a list of interested parties within the neighborhood, and provide opportunities for neighborhood and city-wide stakeholder groups to get periodic updates on the project and provide input at key decision points. Developer shall present the Project at a minimum of two (2) community meetings prior to submittal of the design development drawings to the City for building permits.

12. OTHER OBLIGATIONS

12.1. Equity Contracting. Developer, at its own cost and expense, shall contract with Vanport Partners for assistance with public process and community outreach for the Project.

13. CONTINUING CONVENANTS SURVIVING TERMINATION OF AGREEMENT OR COMPLETION OF CONSTRUCTION

13.1. Surviving Sections. The following Sections of this Agreement shall survive and remain in effect for the periods identified in the DDA notwithstanding issuance of a Certificate of Completion: Section 7.6.2 (INDEMNITY FROM LIABILITY CLAIMS), Section 7.6.3 (INDEMNITY FROM LIENS), and Section ____ (INDEMNIFICATION).

14. MORTGAGEE PROTECTION PROVISIONS

14.1. Effect of Revesting on Mortgages. Any reversion and revesting of the Property or any portion thereof in PDC pursuant to this Agreement shall always be subject to and limited by, and shall not defeat, render invalid, or limit in any way, except as expressly set forth herein, any Mortgage.

14.2. Mortgagee Not Obligated To Construct. Notwithstanding any of the provisions of the Agreement, except those that are covenants running with the Property, a Mortgagee or its designee for purposes of acquiring title at foreclosure shall in no way be obligated by the provisions of this Agreement to construct or complete the Project or to guarantee such construction or completion.

14.3. Copy of Notice of Default to Mortgagee. If PDC delivers a notice or demand to Developer with respect to Developer's breach of this Agreement, PDC shall at the same time send a copy of such notice or demand to each Mortgagee approved by PDC, at the last address of such holder shown in the records of PDC. Failure of PDC to send a copy of such notice or demand to a Mortgagee shall not prevent or limit in any way PDC's rights and remedies under this Agreement or create any liability for PDC.

14.4. Mortgagee's Options to Cure Defaults. After Developer's default of this Agreement and if Developer fails to cure or remedy said default within the required time period, then each Mortgagee shall have thirty (30) days after passage of the latest date for Developer's cure or remedy of the default, to cure or remedy the default itself, if cure or remedy thereof is permitted by this Agreement. If a Mortgagee does cure or remedy the default within said thirty (30) day period, the Mortgagee may add the cost thereof to the Mortgage debt and the lien of its Mortgage, if permitted by its loan documents. If the default is with respect to construction of the Project, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the improvements, provided that the Mortgagee notifies PDC in writing of its intention to complete the Project according to the approved Final Construction Drawings and Technical Specifications. Any Mortgagee who properly completes the Project shall be entitled to issuance of a Certificate of Completion, upon written request made to PDC following the procedures set forth in Section 7.9 above.

14.5. Amendments Requested by Mortgagee. PDC shall execute amendments to this Agreement or separate agreements to the extent reasonably requested by a Mortgagee proposing to make a loan to Developer secured by a security interest in all or any part of the Property or the Project, provided that such proposed amendments or other agreements do not materially and adversely affect the rights of PDC or its interest in the Property.

15. DEFAULT AND REMEDIES

15.1. Default and Cure.

15.1.1. Default by Developer.

- (a) Developer shall be in default under this Agreement if Developer breaches a material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within thirty (30) days after Developer receives written notice from PDC specifying the breach. In the case of a breach that cannot with due diligence be cured within a period of thirty (30) days, Developer shall be in default under this Agreement if Developer does not commence the cure of the breach within thirty (30) days after Developer receives written notice from PDC and thereafter diligently prosecute to completion such cure within a sixty (60) days after the written notice from PDC.
- (b) Developer shall also be in default under this Agreement if Developer makes an assignment for the benefit of creditors, or is adjudicated a bankrupt, or has a receiver, trustee or creditor's committee appointed over it that is not removed within one hundred eighty (180) days after appointment.
- (c) Developer shall also be in default under this Agreement and PDC shall be irreparably harmed by such default, if Developer constructs or operates any portion of the Project in a manner materially inconsistent with Final Construction Drawings and Technical Specifications.

15.1.2. Default by PDC. PDC shall be in default under this Agreement if PDC breaches a material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within thirty (30) days after PDC receives written notice from Developer specifying the breach. In the case of a breach that cannot with due diligence be cured within a period of thirty (30) days, PDC shall be in default under this Agreement if PDC does not commence the cure of the breach within thirty (30) days after PDC receives written notice from Developer and thereafter diligently prosecute to completion such cure within sixty (60) days after the written notice from Developer.

15.2. PDC's Pre-Conveyance Remedies. If a Developer default (as described in Section 15.1.1) occurs before the Property is conveyed to Developer, PDC may, at its option: (i) terminate this Agreement by written notice to Developer, (ii) seek monetary damages against Developer, or (iii) specifically enforce the obligations of Developer under this Agreement. If PDC terminates this Agreement as provided in this Section 15.2, then Developer shall deliver to PDC within thirty (30) days of PDC's notice thereof, copies of all Project market research, design documents, engineering documents, proformas and financial projections prepared for Developer by unrelated third parties, and which Developer is authorized to release. PDC may use any of the foregoing documents in any manner that PDC deems appropriate with the consent of any party having approval rights thereunder. PDC shall pay no compensation to Developer for the foregoing Project documents.

15.3. PDC's Post-Conveyance Remedies. If a Developer default (as described in Section 15.1.1) occurs after the Property is conveyed to Developer, including but not limited to Developer's failure to complete the Project as required by Section 7.3, then PDC shall have the following remedies:

15.3.1. Subject to the Mortgagee protections specified in Section 14, PDC shall have the right to re-enter and take possession of any Parcel(s) with an unsold Unit and to terminate (and revert in PDC) the estate conveyed by the Deeds for such Parcels, terminate Developer's right to develop the Project, and resell any Parcel(s) with an unsold Unit pursuant to Section 15.4 below. The conveyance of the Property to Developer shall be made upon, and the Deeds shall provide for, a condition subsequent to the effect that, in the event of a Developer default (as described in Section 15.1.1), PDC, at its option, may, upon 30 days

written notice of termination to Developer and the Escrow Agent, declare a termination of Developer's rights, title, and interest in the Property. After delivery of such notice of termination, and in the event Developer fails to remedy, end or abrogate such default within the 30-day period in the manner stated in the notice of termination, all the title and rights and interest in the Property conveyed to Developer by the Deeds, or to any successors or permitted assigns of Developer, shall be reconveyed to PDC by quitclaim deed(s) and pursuant to the escrow instructions, each as set forth in Exhibit H. Any delay by PDC in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section 15.3 shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that PDC should not be constrained because of concepts of waiver, laches or estoppel so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this section or otherwise to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by PDC with respect to any specific default by the Developer be considered or treated as a waiver of the rights of PDC with respect to any other defaults by the Developer or with respect to any particular default except to the extent specifically waived.

15.3.2. Developer shall deliver to PDC within thirty (30) days after reconveyance of the Property pursuant to Section 15.3.1, copies of all Project market research, design documents, engineering documents, proformas and financial projections prepared for Developer by unrelated third parties, and which Developer is authorized to release. PDC may use any of the foregoing documents in any manner that PDC deems appropriate with the consent of any party having approval rights thereunder. PDC shall pay no compensation to Developer for the foregoing Project documents.

15.4. PDC Resale. If title to the Property reverts in PDC in accordance with the provisions of Section 15.3, PDC may, at its option, bring the improvements to a state of completion deemed by PDC as reasonably necessary to protect the improvements from the elements or other dangers, and shall, pursuant to its responsibilities under Oregon Revised Statutes, Chapter 457, and Chapter XV of the Charter of the City of Portland, use its best efforts consistent with prudent business practices and generally in accordance with the terms of this Agreement to resell at a reasonable price the Property and such improvements (subject to any Mortgages) as soon and in such a manner as PDC shall find feasible and consistent with the objectives of such laws and the Urban Renewal Plans, to a qualified and responsible party or parties (as determined by PDC in its sole discretion) who will assume the obligation of making or completing the improvements or such other improvements in their stead as shall be satisfactory to PDC. Upon such resale, the proceeds thereof shall be applied as follows:

15.4.1. PDC Reimbursement. First, to PDC on its own behalf to reimburse PDC for all costs and expenses reasonably incurred by it in retaking, completing and selling the Property and its improvements, including, but not limited to, the following:

- (a) Salaries of personnel in connection with the recapture, management and resale of the Property; Any expenditures made or costs incurred in completing the construction of the Project;
- (b) Any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property at the time of revesting of title thereto in PDC or to discharge or prevent from attaching or being made any subsequent encumbrances or

liens due to obligations, defaults, or acts of the Developer, its successors or transferees, excluding any Mortgage in favor of PDC or others;

- (c) All taxes, assessments and water and sewer charges with respect to the Property or part thereof (or, in the event the Property is exempt from taxation or assessment of such charges during the period of ownership thereof by PDC or Developer, an amount equal to such taxes, assessment, or charges, as determined by the County assessing official, as would have been payable if the Property were not so exempt); and
- (d) Any amounts owed to the City as lease or license fees, and any amounts otherwise owing PDC by Developer or its successor or transferee.

15.4.2. Developer Reimbursement. Second, to reimburse Developer, its successor or transferee, up to the amount equal to the sum of:

- (a) Any portion of the Purchase Price of the Property that Developer has paid to PDC; and
- (b) The PDC-approved development costs for the Project or part thereof paid by Developer, or for which Developer remains liable, that were not funded by PDC (if PDC provided financing for the Project), less any gains or income withdrawn or made as to the Project; and

15.4.3. Balance to PDC. Third, any balance remaining after the reimbursements described above shall be retained by PDC.

15.5. Developer's Pre-Conveyance Remedies. If a PDC default (as described in Section 15.1.2) occurs before PDC conveys the Property to Developer, Developer may, at its option: (i) terminate this Agreement by written notice to PDC without waiving any cause of action Developer may have against PDC, (ii) specifically enforce the obligations of PDC under this Agreement, or (iii) seek monetary damages against PDC. Notwithstanding the preceding sentence, Developer shall not seek incidental, indirect, consequential, exemplary, statutory or other special damages or damages for lost opportunity or profits from PDC in connection with PDC's default, but shall be entitled to seek recovery for any liability to third parties arising from such breach.

15.6. Developer's Post-Conveyance Remedies. If a PDC default (as described in Section 15.1.2) occurs after PDC conveys the Property to Developer, Developer may specifically enforce the obligations of PDC under this Agreement, or seek monetary damages against PDC. Notwithstanding the preceding sentence, Developer shall not seek incidental, indirect, consequential, exemplary, statutory or other special damages or damages for lost opportunity or profits from PDC in connection with PDC's default, but shall be entitled to seek recovery for any liability to third parties arising from such breach.

15.7. Nonexclusive Remedies. The rights and remedies provided by this Agreement shall not be deemed exclusive, except where otherwise indicated, and shall be in addition to any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or of any of its remedies for any other default by the other Party, including, without limitation, the right to compel specific performance. Any

limitation of remedies set forth herein shall not limit or affect the obligations of a Party under any contractual indemnities set forth herein.

15.8. Unavoidable Delay.

15.8.1. Neither a Party nor a Party's successor in interest shall be considered in breach of or in default with respect to any obligation under this Agreement if the delay in performance of such obligation ("Unavoidable Delay") is a result of conditions unforeseeable, beyond the Party's reasonable control, and without the Party's fault or negligence, including, without limitation, events such as natural disasters (fire, flood, earthquake, storm, hurricane, or unusually severe weather), war, invasion, hostilities, terrorist activities, epidemic, quarantine, blockage, embargo, labor dispute, shortages of labor or materials, strike, malicious mischief, or explosion.

15.8.2. A Party asserting an Unavoidable Delay as an excuse for failure to perform the Party's obligation must, within thirty (30) days after the Party becomes aware of the causes of any such Unavoidable Delay, notify the other Party in writing of the cause or causes of the delay and estimated time of correction. The Party must thereafter do everything in its power to resume performance of the delayed obligation.

15.8.3. Unavoidable Delay will extend the time or times for performance of the Party's obligation for the period of the Unavoidable Delay.

16. MISCELLANEOUS PROVISIONS

16.1. PDC Project Manager. For the purposes of managing the implementation of the provisions of this Agreement on behalf of PDC, PDC shall designate a Project Manager. At the Effective Date, the Project Manager is Bernie Kerosky.

16.2. Discrimination. Developer, for itself and its successor and assigns, agrees that, during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, sexual orientation or national origin.

16.3. Notice. Any notice or communication under this Agreement by either Party to the other shall be deemed given and delivered (a) forty-eight (48) hours after being dispatched by registered or certified U.S. mail, postage prepaid, return receipt requested, (b) when received if personally delivered, or (c) if sent by e-mail or other form of electronic transmission, with receipt of confirmation that such transmission has been received, and:

In the case of a notice or communication to Developer, addressed as follows:

In the case of a notice or communication to PDC, addressed as follows:

Portland Development Commission

Attn: Bernie Kerosky

222 NW 5th Ave.

Portland, OR 97209

keroskyb@pdc.us

with a copy to:

Portland Development Commission

Attn: General Counsel

222 NW 5th Ave.

Portland, OR 97209

or addressed in such other way in respect to either Party as that Party may, from time to time, designate in writing dispatched as provided in this section. Notice given in any other manner shall be effective upon receipt by the Party for whom the same is intended.

16.3.1. If either Party's notice contact person or address changes, that Party shall provide the other Party with the updated contact information.

16.4. Merger. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring title to the Property from PDC to Developer or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement, but shall be deemed made pursuant to this Agreement.

16.5. Headings. Titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

16.6. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

16.7. Waivers. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver. No waiver by PDC or Developer of any provision of this Agreement or any breach thereof, shall be of any force or effect unless in writing and no such waiver shall be construed to be a continuing waiver.

16.8. Attorneys' Fees. If a suit, action, arbitration, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys', paralegals', accountants', and other experts' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge at trial or on any appeal in addition to all other amounts

provided by law. This provision shall cover costs and attorney fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

- 16.9. Governing Law, Venue, Consent to Jurisdiction.** This Agreement shall be governed by Oregon law, without regard to principles of conflicts of law. Any action or suit to enforce or construe any provision of this Agreement by any Party must be brought in the Circuit Court of the State of Oregon for Multnomah County or, if the action or suit must be brought in a federal forum, the United States District Court for the District of Oregon in Portland, Oregon. Each Party, by execution of this Agreement, hereby consents to the *in personam* jurisdiction of said courts.
- 16.10. Calculation of Time.** All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the state of Oregon, except that if the last day of any period falls on any Saturday, Sunday or legal holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or legal holiday.
- 16.11. Construction.** In construing this Agreement, singular pronouns shall be taken to mean and include the plural and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.
- 16.12. Legal Purpose.** Developer agrees to use the Project solely for lawful purposes.
- 16.13. Severability.** If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.
- 16.14. Entire Agreement.** This Agreement and its exhibits are the entire agreement between the Parties with regard to the disposition and development of the Property. There is no other oral or written agreement between the Parties with regard to this subject matter. There are no oral or written representations or warranties made by either Party, implied or express, other than those contained in this Agreement.
- 16.15. Amendments and Modifications.** Any modifications to this Agreement must be made in writing and executed by all Parties, with the approval of the PDC Board of Commissioners, if required. Notwithstanding this general requirement, the PDC Executive Director may approve minor modifications to this Agreement without Board of Commissioners approval. Any modifications to this Agreement made without the approval of the PDC Board of Commissioners must include an acknowledgement by PDC's General Counsel that such approval is not necessary.
- 16.16. Successors and Assigns.** Subject to the provisions of Section 9, the benefits conferred by this Agreement, and the obligations assumed thereunder, shall inure to the benefit of and bind the successors and permitted assigns of the Parties.
- 16.17. No Partnership.** Nothing contained in this Agreement or any acts of the Parties hereby shall be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between any of the Parties other than that of independent contracting parties.

- 16.18. Non-waiver of Government Rights.** Subject to the terms and conditions of this Agreement, by making this Agreement and delivery of the Deeds, PDC is specifically not obligating itself, the City, or any other agency with respect to any discretionary action relating to development or operation of the improvements to be constructed on the Property, including, but not limited to, rezoning, variances, environmental clearances or any other governmental approvals which are or may be required, except as expressly set forth herein.
- 16.19. Approvals.** Where this Agreement requires the approval of PDC, PDC will approve or disapprove in writing within ten (10) business days after receipt of the material to be approved, except where a longer or shorter time period is specifically provided to the contrary, and further excepting construction change orders, to the extent governed by applicable loan documents, which will be processed according to the applicable loan documents. Failure by PDC to approve or disapprove within said period of time shall be deemed an approval. Any disapproval shall state the reasons for such disapproval. Approvals will not be unreasonably withheld, except where rights of approval are expressly reserved to PDC's sole discretion in this Agreement. Developer, upon receipt of such disapproval, shall revise such disapproved portions in a manner responsive to the stated reasons for disapproval and resubmit the same to PDC within forty-five (45) days after receipt of the notice of disapproval.
- 16.20. Approval by PDC Executive Director.** Except as provided for elsewhere in this Agreement, whenever consent or approval by PDC is required under the terms of this Agreement, all such consents or approvals shall be given in writing from the Executive Director of PDC or his or her designee.
- 16.21. Time of Essence.** Time is of the essence of this Agreement.
- 16.22. No Third-Party Beneficiary Rights.** No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall have any right to enforce any term of this Agreement.
- 16.23. Recording of Memorandum of Agreement.** PDC shall record a memorandum of this Agreement ("Memorandum of Agreement") within ten (10) days after the Effective Date. The form of the Memorandum of Agreement is attached as Exhibit I to this Agreement. When PDC issues to Developer a Certificate of Completion or if the Agreement is terminated, the Parties shall cooperate to promptly record an Amended Memorandum of Agreement to reflect the surviving covenants of this Agreement.
- 16.24. Incorporation.** The exhibits attached to this Agreement are incorporated into and made a part of this Agreement.
- 16.25. STATUTORY WARNING.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE

PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Executed in multiple counterparts as of the Effective Date.

CITY OF PORTLAND, a municipal corporation in the State of Oregon, acting by and through the Portland Development Commission as the duly designated Urban Renewal Agency of the City of Portland.

By: _____

Bruce A. Warner, Executive Director

APPROVED AS TO FORM:

_____, Attorney

Portland Development Commission

_____, a _____

By: _____

Name: _____

Title: _____

EXHIBITS

- Exhibit A.** Description of the Property
- Exhibit B.** Definitions
- Exhibit C.** Form of Deeds
- Exhibit D.** Project Budget
- Exhibit E.** Schedule of Performance
- Exhibit F.** Scope of Development
- Exhibit G.** Form of Certificate of Completion
- Exhibit H.** Form of Quitclaim Deeds and Escrow Instructions
- Exhibit I.** Form of Memorandum of Agreement
- Exhibit J.** Environmental Due Diligence Reports
- Exhibit K.** No Further Action Letter/Underground Storage Tank Closure Letter/Easement
and Equitable Servitude
- Exhibit L.** Permit of Entry

EXHIBIT A

DESCRIPTION OF PROPERTY

EXHIBIT B

DEFINITIONS

The following words and phrases have the designated meanings in this Agreement:

1. **“Certificate of Completion”** means a certificate issued by PDC to Developer pursuant to Section 7.9 of this Agreement.
2. **“City”** means the municipal corporation of the City of Portland, Oregon and its constituent bureaus and agencies, except PDC.
3. **“City Design Review”** means review by the City of Portland, Bureau of Development.
4. **“Closing”** means the transfer of the Property to Developer by PDC by recording of the Deeds and handling of all other necessary documentation by the Escrow Agent.
5. **“Construction Drawings and Technical Specifications”** means documents, based upon the Design Development Drawings, that set forth in detail the requirements for construction of the Project pursuant to the terms of this Agreement, approved by the appropriate City agencies. Construction Drawings and Technical Specifications shall include drawings and specifications that establish in detail the quality levels of materials and systems required for the Project.
6. **“Conveyance”** means the transfer of fee simple title to the Property by PDC to Developer.
7. **“Design Development Drawings”** means the detailed plans submitted for City building permits, including, if required by the City, but not limited to:
 - Architectural site plans showing all structures upon the site together with all connections to existing or proposed utilities, roads, sidewalks and alleys;
 - A general landscaping concept plan;
 - Elevations of the buildings to determine the site lines and the specific configuration and relationship of design elements of the building exteriors, which describe the aesthetic and technical aspects, including materials, of the building exteriors;
 - A calculation of gross building areas, floor areas, height ratios and open spaces;
 - A preliminary Exterior Finish Schedule;
8. **“EEO Certification Program”** means the program run by the City requiring contractors to certify that they do not discriminate against any employee or applicant on the basis of race, religion, color, sex, marital status, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income, and that they take steps to ensure equal opportunity in all aspects of employment aspects including, but not limited to, hiring, promotion, transfer, advertising, layoff, termination, rates of pay, training (including apprenticeship), and terms and conditions of employment.
9. **“Environmental Conditions”** means the physical condition of the Property as measured by the standards of the Environmental Laws. Environmental Conditions do not include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.
10. **“Environmental Laws”** means all federal, state and local laws, ordinances, rules and regulations relating to the protection or regulation of the environment that apply to the Property or the Project, including without limitation, Chapter 466 of the Oregon Revised Statutes, Chapter 341 of the Oregon Administrative Rules, RCRA (as defined in the definition of Hazardous Substances, below), CERCLA (defined in the definition of Hazardous Substances, below), the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act.
11. **“Environmental Due Diligence Reports”** means reports of investigations performed as part of environmental due diligence, which may include Phase I, Phase 2 and Hazardous Building Site Assessments and reports, documents or documentation of Recognized Environmental Conditions that PDC has completed or PDC has in its possession, completed by others. A complete list of the Environmental Due Diligence Reports is attached as Exhibit J and incorporated herein by reference.

12. **“Final Project Budget”** means the updated and revised estimated sources and uses of funds, cash flow, and Project Budget, submitted by Developer to PDC prior to Closing.
13. **“General Contractor”** means [name of contractor].
14. **“Infrastructure”** means public streets, sidewalks, alleys, and driveway approaches, connections to garages, planting street trees and grass in planting strips, stormwater mitigation, street and parking lot lighting, construction and connection of the Project to abutting potable water and sewer and storm sewer mains, connecting the Project to gas and electric and other necessary utility services, and all permitting for any of the above as further described in the Scope of Development set forth in Exhibit F attached hereto and incorporated herein by this reference.
15. **“Mortgage”** means a mortgage, deed of trust or master lease against the Property (or any portion thereof) to finance the Project that is approved by PDC and recorded in the real property records of Multnomah County, Oregon.
16. **“Mortgagee”** means the holder of any Mortgage, including a master lease and trust deed, together with any successor or assignee of such holder. The term “Mortgagee” shall include any Mortgagee as owner of the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, or any insurer or guarantor of any obligation or condition secured by a Mortgage but shall not include (a) any other person or entity who thereafter obtains title to the Property or such part from or through a Mortgagee or (b) any other purchaser at foreclosure sale.
17. **“NFA Letter”** means the No Further Action Letter issued by DEQ pertaining to the Property, dated [date].
18. **“PDC’s knowledge”** means the actual current knowledge of the PDC Project Manager, without any duty of inquiry or investigation.
19. **“Preliminary Design Documents”** means the site drawings for the Project including schematic, massing, feasibility and preliminary cost estimates for the Project in the form approved by PDC and that were the basis for entering into this Agreement.
20. **“Project Budget”** means the summary financial analysis for the Project set forth in Exhibit D, attached hereto and incorporated herein by this reference. The Project Budget represents the estimated sources and uses of funds, cash flow and Project costs as of the Effective Date.
21. **“Public Participation Policy”** means the policy adopted by the PDC Board of Commissioners Resolution 6266 on June 22, 2005.
22. **“Schedule of Performance”** means the document describing the schedule by which construction and development of the Project will occur, attached hereto as Exhibit E and incorporated herein by this reference.
23. **“Scope of Development”** means the description of the improvements to be built comprising the Project, attached hereto as Exhibit F.
24. **“Title Report”** means title report number _____, dated _____, issued by Title Company.

EXHIBIT C

FORM OF

BARGAIN AND SALE DEED

After recording return to and,
until a change is requested, all
tax statements shall be sent to:

BARGAIN AND SALE DEED

The **CITY OF PORTLAND**, a municipal corporation of the State of Oregon, acting by and through the **PORTLAND DEVELOPMENT COMMISSION**, as the duly designated Urban Renewal Agency of the City of Portland (which, together with any successor public agency designated by or pursuant to law, is herein called "Grantor" or "PDC"), conveys to _____, a _____ (herein called the "Grantee" or "Developer"), the following described real property (herein called the "Property"):

The conveyance is made pursuant to that certain Agreement for Disposition and Development of Property (_____), between Developer and PDC, dated _____20__, a Memorandum of which was recorded on _____, 20__ as Document No. _____, Records of Multnomah County, Oregon (the "DDA"). Any capitalized terms in this Deed shall have the meanings set out in the DDA, unless otherwise defined herein. Other property or value was either part or the whole consideration.

The conveyance is subject to the following:

1. The covenants set forth in the DDA that the parties intend by the terms of the DDA to be real covenants running with the land.
2. A condition subsequent to this conveyance, that PDC shall have the option, in the event of a default by Developer before PDC issues a Certificate of Completion for a Parcel, and upon 30 days written notice (hereinafter "Notice of Termination") to said Developer and the Escrow Agent, to declare a termination in favor of PDC of the title, and of all the rights and interest of Developer, and its successors and assigns, in the Property. After delivery of such Notice of Termination, and in the event the default is not remedied within the 30-day period in the manner stated in the Notice of Termination, Developer shall reconvey the Property to PDC by quitclaim deed, pursuant to the Escrow Instructions in Exhibit H to the DDA.
3. After a Certificate of Completion is recorded, PDC shall thereafter have, or be entitled to exercise, no rights or remedies or controls that it may otherwise have been entitled to exercise under the DDA with respect to the construction of a Unit, including but not limited to the right of entry to the Property and power of termination in PDC described in subparagraph 2 immediately above.

This Deed is made by PDC pursuant to powers exercised by it under Oregon Revised Statutes Chapter 457, and Chapter XV of the Charter of the City of Portland, and for the purpose of carrying out an urban renewal plan for the _____ Urban Renewal Area approved by the City Council of the City on _____, as amended.

It is intended that the delivery of this Deed shall not effect a merger of those provisions of the DDA that are intended by the terms of the DDA to continue after the delivery of this Deed.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

IN WITNESS WHEREOF, the City of Portland Development Commission, as the duly designated urban renewal agency of the City of Portland, a municipal corporation of the State of Oregon, has caused this Deed to be executed this ____ day of _____, 20__.

CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the Portland Development Commission, as the duly designated urban renewal agency of the City of Portland.

By: _____
Chairman

By: _____
Secretary

STATE OF OREGON)
) ss.
County of Multnomah)

The foregoing instrument was acknowledged before me on _____, 20__, by _____ and _____ as Chairman and Secretary of the City of Portland Development Commission, on its behalf.

Notary Public for Oregon
My commission expires: _____

Schedule 1
Liens and Encumbrances

EXHIBIT D

PROJECT BUDGET

	<u>Item</u>	<u>Per Unit</u>	<u>Units</u>	<u>Total</u>
1	Plans, specs, surveys, consultation, prelim plat	\$ 11,000	10	\$ 110,000
2	Building permits	\$ 30,000	10	\$ 300,000
3	Temp power, excavation, backfill	\$ 5,000	10	\$ 50,000
4	Footing and foundation	\$ 6,000	10	\$ 60,000
5	Framing material	\$ 8,000	10	\$ 80,000
6	Trusses	\$ 2,000	10	\$ 20,000
7	Framing labor	\$ 4,000	10	\$ 40,000
8	Roofing	\$ 3,000	10	\$ 30,000
9	Windows and sliders	\$ 2,000	10	\$ 20,000
10	Plumbing	\$ 6,000	10	\$ 60,000
11	Electrical	\$ 5,000	10	\$ 50,000
12	Fireplace	\$ 1,250	10	\$ 12,500
13	Masonry, veneer, chimney	\$ 1,000	10	\$ 10,000
14	Bsmt, garage flrs, flatwork	\$ 2,500	10	\$ 25,000
15	Siding	\$ 8,000	10	\$ 80,000
16	Heating, ac	\$ 4,000	10	\$ 40,000
17	Insulation	\$ 3,000	10	\$ 30,000
18	Drywall, tape, texture	\$ 5,000	10	\$ 50,000
19	Sewer, septic	\$ 1,000	10	\$ 10,000
20	Water hook-up	\$ 1,000	10	\$ 10,000
21	Gutters, sheet metal	\$ 1,500	10	\$ 15,000
22	Exterior painting	\$ 2,500	10	\$ 25,000
23	Interior painting	\$ 4,000	10	\$ 40,000
24	Cabinets, hardware	\$ 5,000	10	\$ 50,000
25	Lino, tile, vinyl	\$ 4,000	10	\$ 40,000
26	Plumbing finish	\$ 3,000	10	\$ 30,000
27	Garage door	\$ 1,250	10	\$ 12,500
28	Electrical finish	\$ 2,500	10	\$ 25,000
29	Carpets	\$ 2,000	10	\$ 20,000
30	Hardwood floors	\$ 2,500	10	\$ 25,000
31	Interior, exterior doors & trim	\$ 2,500	10	\$ 25,000
32	Finish labor	\$ 2,500	10	\$ 25,000
33	Finish hardware	\$ 1,000	10	\$ 10,000
34	Appliances	\$ 1,000	10	\$ 10,000
35	Decks, ect	\$ 2,000	10	\$ 20,000
36	Concrete steps, patio, drive	\$ 1,250	10	\$ 12,500
37	Clean-up	\$ 500	10	\$ 5,000
38	Landscaping	\$ 1,500	10	\$ 15,000
39	Misc. extras, contingency	\$ 2,500	10	\$ 25,000
40	Closing costs	\$ 3,250	10	\$ 32,500
41	Interest reserve	\$ 7,500	10	\$ 75,000
42	Rock & concrete	\$ 1,000	10	\$ 10,000
43	Lot cost	\$ 26,000	10	\$ 260,000
44	Contractors fee	\$ 20,065	10	\$ 200,647
45	Real Estate	\$ 13,376	10	\$ 133,765
46	Total Project Costs	\$ 222,941	10	\$ 2,229,412

EXHIBIT E

SCHEDULE OF PERFORMANCE

TASK	DUE DATE
1. 1. PDC to provide Preliminary Title Report to Developer - Section 2.8.1	[Ten days after Effective date]
2. PDC to complete review Preliminary Design Documents – Section 7.2.1	[On or before Effective Date]
3. Developer to secure land use approvals and permits - Section 4.1.2(ii); 4.1.4(i)	18 months after Effective date]
4. Developer to secure building permits from BDS - Section 4.1.2(i); 4.1.4(i)	[18 months after Effective date]
5. Developer to provide documentation of required financing - Section 4.1.4(ii).	[18 months after Effective date]
6. PDC to provide final form of Deed - Section 5.3	[60 days after Effective date]
7. Developer to provide Organizational Documents, Certificate of Existence, and Authorizing Resolution - Section 4.1.4(ii)	[60 days after Effective date]
8. Developer to submit Final Project Budget - Section 4.1.4(iii)	12 months after Effective date]
9. PDC to complete review of Final Project Budget - Section 4.1.4(iii)	[30 days after Developer submission]
10. Closing/Conveyance of Property to Developer - Section 5	[18 months after Effective date]
11. Developer to begin construction	[120 days after Closing date]
12. Final Termination Date (if Closing does not occur by Closing date) - Section 4.3	[60 days after Closing date]
13. Developer to complete construction and secure all building permit finals for the Project - Section 7.9.1ii	[Three years after Closing date]
14. Developer to request last Certificate of Completion from PDC – Section 7.9	[Three years after Closing date]
15. PDC to issue last Certificate of Completion (assuming compliance with DDA) - Section 7.9.1	[Three years after Closing date]

EXHIBIT F

SCOPE OF DEVELOPMENT

- Developer will pursue a subdivision of the land into ten (10) parcels.
- Developer will construct ten (10) single-family, detached homes on the property.
- The homes will average 1,300 s.f. in size and will be three (3) stories tall with garages on first level.
- The final appearance will not substantially deviate from the PDC approved Preliminary Design Documents.
- The price range of the homes will be between \$220,000 and \$265,000 depending on market conditions at the time of sale.
- The eight (8) interior homes will have vehicular access from the rear of the property through the Vanport Phase I Commercial property as provided by an access easement. The outer homes will have vehicular access from NE Summer and NE Emerson respectively.
- Developer will provide 90% efficient furnaces, Energy Star appliances and low e windows for all ten (10) homes.
- Developer will work towards achievement of a minimum 20% M/W/ESB subcontractor participation for the project.
- Developer will seek to underground electrical utilities along NE Garfield Street in front of the project.

EXHIBIT G

FORM OF CERTIFICATE OF COMPLETION

After recording return to:

CERTIFICATE OF COMPLETION

The CITY OF PORTLAND (the "City"), a municipal corporation of the State of Oregon, acting by and through the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland ("PDC") hereby determines that _____, a _____ ("Developer"), has substantially completed construction of the Unit as described in the Agreement for Disposition and Development of the Parcel (_____), dated _____, 20__ (the "DDA"), a memorandum of which was recorded in the Records of Multnomah County, Oregon as Document No. _____ on _____, 20__. Capitalized terms used herein without definition shall have the meaning ascribed to them in the DDA.

Pursuant to Section 7.9 of the DDA, PDC hereby determines that:

- (i) the Project is complete according to the Preliminary Design Documents, except for punch-list items that do not materially affect the use of the Project for the purposes intended under the DDA,
- (ii) the City of Portland has issued a temporary or permanent building permit final with respect to the Unit.

This Certificate of Completion constitutes a conclusive determination of the satisfaction of all of the agreements, covenants and conditions contained in the DDA with respect to the obligations of Developer, its successors and assigns, as to the construction of the Unit, and such obligations shall automatically cease and become of no further effect, except as otherwise provided in this Certificate of Completion. This Certificate of Completion represents and determines the completion of Developer's construction obligations described herein as to PDC only.

Further,

- (1) Any party acquiring or leasing any portion of the Parcel shall not (because of such purchase or lease) have any obligation under the DDA with respect to the construction of the Unit, and
- (2) The following Sections of the DDA shall survive and remain in effect for the periods identified in the DDA notwithstanding issuance of this Certificate of Completion ("Surviving Sections"): Section 7.6.2 (INDEMNITY FROM LIABILITY CLAIMS),

Section 7.6.3 (INDEMNITY FROM LIENS), Section 8 (COVENANTS RUNNING WITH THE LAND), Section ____ (INDEMNIFICATION), and, to the extent such obligations are intended to continue as provided therein, Section 10 (COMPLIANCE WITH CONSTRUCTION WAGE POLICY, BUSINESS AND WORKFORCE EQUITY POLICY, GREEN BUILDING POLICY AND EEO CERTIFICATION PROGRAM), Section 11 (COMPLIANCE WITH OTHER PDC POLICIES), and Section 12 (OTHER OBLIGATIONS).

Other than its right to enforce the Surviving Sections, PDC shall hereafter have, or be entitled to exercise, no rights or remedies or controls that it may otherwise have been entitled to exercise under the DDA with respect to the construction of the Unit, or as a result of a breach of any provisions of the DDA relating to construction by the Developer, or by any successors in interest or assigns of Developer. Without limitation, PDC confirms that PDC no longer has any right of entry to the Parcel or power to terminate Developer's title to the Parcel and re-vest such title in PDC.

IN WITNESS WHEREOF, PDC has caused this instrument to be executed this ____ day of _____, 20__.

CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland

By: _____

Name: _____

Executive Director

STATE OF OREGON)

) ss.

County of Multnomah)

This instrument was acknowledged before me on _____, 20__, by _____, Executive Director of the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland, on its behalf.

Notary Public for Oregon

My commission expires: _____

EXHIBIT H

FORM OF QUITCLAIM DEED AND ESCROW INSTRUCTIONS

After recording return to and,

until a change is requested,

all tax statements shall be sent to:

Portland Development Commission

222 NW 5th Avenue

Portland, OR 97209

Attn: General Counsel

QUITCLAIM DEED

_____, a _____ (“Grantor”), releases and
quitclaims to the CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and
through the PORTLAND DEVELOPMENT COMMISSION, the duly designated Urban Renewal Agency
of the City of Portland (together with any successor public agency designated by or pursuant to law,
“Grantee”), all right, title and interest in and to the following described real property:

Other property or value was either part or the whole consideration.

It is intended that the delivery of this Deed shall not effect a merger of the provisions of that certain
Disposition and Development Agreement for the Project, dated _____, a memorandum of which was
recorded on _____ as Document No. _____, Records of Multnomah County, Oregon (the “DDA”). Including,
without limitation, Section 15.4 of the DDA, that are intended to continue after delivery of this Deed.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE
TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300,
195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007,
AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES
NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF
APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS
INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK
WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT
THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL,

AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

Dated this ____ day of _____, 20__.

_____, a _____

By: _____

Name: _____

Title: _____

Accepted this ____ day of _____, 20__.

CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the PORTLAND DEVELOPMENT COMMISSION, the duly designated Urban Renewal Agency of the City of Portland.

By: _____

Name: _____

Title: Executive Director

STATE OF OREGON)

) ss.

County of Multnomah)

This instrument was acknowledged before me on _____, 20__, by _____, as _____ of _____, a _____, on its behalf.

Notary Public for

My commission expires: _____

STATE OF OREGON)

) ss.

County of Multnomah)

This instrument was acknowledged before me on _____, 20__, by
_____, Executive Director of the PORTLAND DEVELOPMENT COMMISSION, the duly
designated urban renewal agency of the City of Portland, on its behalf.

Notary Public for

My commission expires: _____

EXHIBIT H (Continued)

ESCROW INSTRUCTIONS FOR QUITCLAIM DEEDS

_____ Title Insurance Company

Attention: [INSERT TITLE OFFICER]

Re: Escrow No. _____

_____, a _____ (“Developer”), has entered into that certain Agreement for Disposition and Development of Property in the _____ Urban Renewal Area (the “DDA”) with the City of Portland, Oregon, acting by and through the Portland Development Commission (“PDC”) dated as of _____, 20__, a Memorandum of which was recorded _____, 20__ as Document No. _____, Records of Multnomah County, Oregon, whereby PDC will convey to the Developer or its assignees certain real property (the “Parcel”). The Parcel is the subject of this escrow and is described in the accompanying quitclaim deed (“Quitclaim Deed”).

Section 15.3 of the DDA provides that, under certain circumstances, PDC is entitled to reconveyance of the Property pursuant to a Quitclaim Deed and Escrow Instructions. This document constitutes those escrow instructions and is for the purpose of irrevocably instructing you as to the disposition of the accompanying Quitclaim Deed.

In the event that you receive from PDC a notice signed by PDC’s Executive Director certifying that a copy of said notice has been delivered concurrently to Developer and certifying that a termination of all rights, title and interest of Developer in the Parcel has occurred, and that rights to the Parcel described in the Quitclaim Deed have reverted in PDC pursuant to the DDA (“Notice of Termination”), you shall at the end of thirty (30) days after receipt of said instructions record the subject Quitclaim Deed unless within said thirty (30) day period, you are notified by PDC that PDC has withdrawn the Notice of Termination.

In the event that you receive a copy of a Certificate of Completion issued by PDC with respect to the Unit (either an original or one certified by Developer as being a duplicate of the original), you will promptly return the Quitclaim Deed to Developer. In the event that there still remains in your possession an undisposed Quitclaim Deed by **[insert date eighteen (18) months after DDA scheduled date for completion of improvements]** you shall contact PDC and Developer as to its disposition.

These instructions may not be withdrawn or in any way amended, modified or waived without the prior written consent of both of the parties hereto.

Please indicate your acceptance of and agreement to carry out these instructions as indicated below.

Very truly yours,

_____, a _____

By: _____

Name: _____

Title: _____

Very truly yours,

CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the
PORTLAND DEVELOPMENT COMMISSION, the duly designated Urban Renewal Agency of the City
of Portland.

By: _____

Name: _____

Title: _____

Accepted and agreed to this

___ day of _____, 20__

_____, Title Insurance Company

By: _____

Name: _____

Title: _____

EXHIBIT I

FORM OF MEMORANDUM OF AGREEMENT

After recording return to:

Portland Development Commission

222 NW Fifth Avenue

Portland, OR 97209

Attn: _____

Memorandum of Agreement

THIS MEMORANDUM OF AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY (“Memorandum”) shall serve as notice to all persons that the CITY OF PORTLAND (the “City”), a municipal corporation of the State of Oregon, acting by and through the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland (“PDC”), with an address of Portland Development Commission, 222 NW Fifth Avenue, Portland, Oregon 97209-3859 and _____, a _____ (“Developer”), with an address of _____, entered into an Agreement for Disposition and Development of Property in the _____ Urban Renewal Area, (_____) dated as of _____, 20__ (“Agreement”) relating to the real property located in Multnomah County, Oregon, as more particularly described in Exhibit A attached hereto (the “Property”).

Among other things, the Agreement requires PDC to convey the Property to Developer upon the satisfaction of certain conditions precedent, and requires Developer to construct and complete certain infrastructure and project improvements on the Property, all as more particularly set forth in the Agreement.

The Agreement also imposes several covenants running with the land. Developer covenants and agrees to use the Property only for purposes substantially consistent with this Agreement, including the Scope of Development and Final Construction Plans and Specifications and that prior to the issuance of the Certificate of Completion, the Design Review provisions of Section 7.2 of this Agreement will survive any foreclosure of transfer of the Property by a deed in lieu of foreclosure or any other transfer of the Property. PDC and Developer also declare and agree that these covenants described in this paragraph are covenants running with the land and shall pass to and be binding on Developer’s successors in title, including, without limitation, any Mortgagee, purchaser, grantee, or lessee of any portion of the Property and any other person or entity having any right, title, or interest in the Property and upon the respective heirs, executors, administrators, devisees, designees, successors, and assigns of any Mortgagee, purchaser, grantee, or lessee of any portion of the Property and any other person or entity having any right, title, or interest in the Property.

As a condition subsequent to the Property conveyance, in the event of a default by Developer before PDC issues a Certificate of Completion, PDC shall have the option, upon 30 days written notice (“Notice of Termination”) to Developer and Escrow Agent, to declare a termination in favor of the PDC of all the title, rights and interests of Developer in the Property. After delivery of such Notice of Termination and in the event Developer fails to remedy, end or abrogate such default within the 30-day period in the manner stated in the Notice of Termination, Developer shall reconvey the Property to PDC by quitclaim deed, pursuant to the Escrow Instructions in Exhibit H attached to the Agreement. After a Certificate of Completion is recorded as to the Project, PDC shall thereafter have, or be entitled to exercise, no rights or remedies or controls that it may otherwise have been entitled to exercise under the Agreement with respect to the construction of the Project, or as a result of a default in or breach of any provisions of the Agreement by Developer, or by any successors in interest or assigns of Developer, except for those surviving sections described in the Certificate of Completion. PDC shall thereafter have no further right of entry to the Property or power to terminate the title, rights and interests of Developer in the Property as described above.

PDC and Developer execute this Memorandum to acknowledge being bound by the Agreement and to give notice of the Agreement to third parties.

CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland.

By: _____

Name: _____

Title: Executive Director

_____, a _____

By: _____

Name: _____

Title: _____

STATE OF OREGON)

) ss.

County of Multnomah)

This instrument was acknowledged before me on _____, 20_, by

_____, Executive Director of the PORTLAND DEVELOPMENT COMMISSION, the duly designated urban renewal agency of the City of Portland, on its behalf.

Notary Public for

My commission expires: _____

STATE OF OREGON)

) ss.

County of Multnomah)

This instrument was acknowledged before me on _____, 200_, by _____,
_____ of _____, a _____, on its behalf.

Notary Public for

My commission expires: _____

EXHIBIT A TO MEMORANDUM OF AGREEMENT

Description of Property

EXHIBIT J

ENVIRONMENTAL DUE DILIGENCE REPORTS

EXHIBIT K

**NO FURTHER ACTION LETTER/UNDERGROUND STORAGE TANK CLOSURE
LETTER/EASEMENT AND EQUITABLE SERVITUDE**

EXHIBIT L

PERMIT OF ENTRY

PDC

PORTLAND DEVELOPMENT COMMISSION

Resolution Number 6839

Title:

AUTHORIZING AN AGREEMENT FOR THE DISPOSITION AND DEVELOPMENT OF REAL PROPERTY LOCATED ON THE EAST SIDE OF NE GARFIELD AVENUE BETWEEN NE SUMNER STREET AND NE EMERSON STREET, PARTITION PLAT 2006-136 LOT 1, IN THE OREGON CONVENTION CENTER AND INTERSTATE CORRIDOR URBAN RENEWAL AREAS WITH LISAC BROTHERS CONSTRUCTION, INC.

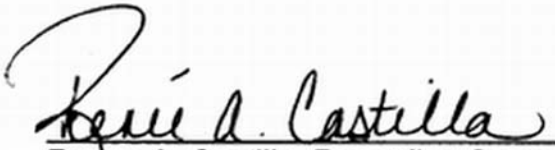
Adopted by the Portland Development Commission on December 8, 2010.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Chair Scott Andrews	<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 John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Commissioner Steven Straus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Commissioner Charles Wilhoite	<input 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 duly recorded in the official minutes of the meeting.



Renee A. Castilla, Recording Secretary

Date: February 10, 2011