

DATE: December 12, 2012
TO: Board of Commissioners
FROM: Patrick Quinton, Executive Director
SUBJECT: Report Number 12-46
Authorizing a Disposition and Development Agreement to Convey 0.76 Acres of Real Property in the Central Eastside Urban Renewal Area to Key Development Corporation for \$1,650,000

BOARD ACTION REQUESTED

Adopt Resolution No. 6984

ACTION DESCRIPTION

This action will authorize the Executive Director to execute a Disposition and Development Agreement (DDA) between the Portland Development Commission (PDC) and Key Development Corporation (KDC) for the conveyance of Burnside Bridgehead Block 67 (Property), a 0.76 acre PDC-owned parcel, to KDC for the consideration of \$1,650,000. KDC is proposing to construct a privately-owned building which will be approximately 12 stories and 205,000 square feet (SF), and will include approximately 292 market rate apartments, 11,000 SF of commercial space, and 175 structured parking spaces. The Property is located in the Central Eastside Urban Renewal Area (CESURA) and is bounded by East Burnside Street, NE 3rd Avenue, and NE 2nd Avenue (Attachment A).

This action implements the Burnside Bridgehead Framework Plan and the City of Portland's Economic Development Strategy by contributing to the creation of a significant mixed-use gateway development at this location and by developing housing within the Central City proximate to employment opportunities, regional destinations, and transit service.

BACKGROUND AND CONTEXT

Burnside Bridgehead Property. The Burnside Bridgehead Property, which consists of Blocks 67, 68, 76, and portions of Blocks 69 and 75, was acquired by PDC between 1998 and 2006 for the purposes of implementing a multi-block mixed-use redevelopment project. The Burnside Bridgehead Property is located within Portland's Central City, immediately across the Willamette River from the Central Business District.

Block 67. The Property is located in the southwest quadrant of the Burnside Bridgehead Property (Attachment A). The Property is located adjacent to the Burnside Bridge, the Burnside Skate Park (located under the Burnside Bridge), Convention Plaza (which is being renovated by Beam Development), and within two blocks of the recently opened Eastside Portland Streetcar Loop. The eastern half of the block, fronting on NE 3rd Avenue, is vacant. The western half of the block, fronting on NE 2nd Avenue, is a surface parking lot leased by PDC to nearby commercial businesses from which PDC receives approximately \$1,000 per month in parking revenues. There is a significant slope running north-south through the property, so that the western half of the block (adjacent to the Burnside Skate

Park) is significantly lower than the eastern half. The Property is zoned EXd, Central Employment with Design Review overlay. PDC has removed underground storage tanks from the Property and does not anticipate environmental conditions will affect redevelopment efforts.

2004 Request for Proposals. PDC issued a Request for Proposals (RFP) on August 16, 2004, to solicit development proposals for the Burnside Bridgehead Property. PDC selected Opus Northwest, LLC (Opus) as the preferred developer and entered into a Memorandum of Understanding (MOU) with Opus on March 8, 2006. The development program proposed by Opus changed over time in response to market conditions, and the PDC Board decided to allow the MOU to expire in 2008 without entering into a development agreement with Opus.

2010 Framework Plan and Request for Interest. Following the expiration of the MOU with Opus, PDC initiated preparation of the Burnside Bridgehead Framework Plan (Framework Plan), which was adopted by the PDC Board on May 26, 2010. The Framework Plan established a strategic design approach for the redevelopment of the Burnside Bridgehead Property involving development in smaller increments and by more than a single developer. As the first step toward implementing the Framework Plan, PDC issued a Request for Interest (RFI) on July 15, 2010 seeking offers from qualified development teams to purchase and redevelop portions of the Burnside Bridgehead Property.

PDC received a total of ten statements of interest in response to the RFI, including two statements that were specific to Block 67. An evaluation committee consisting of PDC staff and citizen stakeholders evaluated the statements in accordance with the criteria listed in the RFI. Key Development Corporation (KDC) was identified as the preferred development partner for the Property and PDC staff was authorized by the Executive Director to enter into a Memorandum of Understanding (MOU) with KDC. The MOU, executed on April 4, 2011, set forth the mutual understandings and intentions to complete a series of due diligence scope items while negotiating the terms of a binding DDA.

Key Development Corporation Planned Development. KDC anticipates constructing an apartment building which will be approximately 12 stories and 205,000 square feet (SF), and will include approximately 292 market rate apartments, 11,000 SF of commercial space, and 175 structured parking spaces (Project). KDC anticipates the apartment building will be located on the east half of the block. Although KDC does not have a definitive development plan for the west half of the block at this time, including the west half of the block in the transaction is beneficial to both PDC and KDC since this will allow a more cohesive block-wide project and sharing of infrastructure improvements such as parking. In addition, the west half of the block has limited development value as a stand-alone property due to a deep tunnel easement for the Combined Sewage Overflow (Eastside Big Pipe).

Total proposed project costs are anticipated to be approximately \$62 million as follows:

Project Uses	
Acquisition	\$1,650,000
Construction Hard Cost	\$45,994,600
Soft Costs	\$11,207,900
Financing Costs	\$3,064,400
Total Project Uses	\$61,916,900

Project Financing Sources	
Equity A Shares	\$3,461,500
Equity B Shares	\$15,000,000
Private Loan	\$43,455,400
Total Project Financing Sources	\$61,916,900

KDC has indicated an expectation to raise the Equity B Shares financing through the Employment-Based Immigration: Fifth Preference (EB-5) Program created by Congress in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors. The EB-5 Program is administered by the U.S. Citizen and Immigration Services (USCIS). KDC has alternative financing plans in the event EB-5 financing is not possible.

Disposition and Development Agreement Terms. The key terms of the negotiated DDA include:

- Purchase price of \$1.65 million, which is the fair market value based on an October 2012 appraisal of the Property;
- PDC to not provide any investment or financial assistance for redevelopment of the Property;
- KDC to provide PDC \$89,500 earnest money deposit (equal to 5.4 percent of the purchase price) due within ten days of the Effective Date, and non-refundable at the end of the Due Diligence Period;
- KDC may elect not to proceed with the transaction if matters are not acceptable to KDC at the end of 120-day Due Diligence Period;
- Closing to occur within 18 months of the Effective Date;
- Prior to Closing, KDC must have:
 - Final Construction Plans approved by all required governmental entities, including PDC;
 - all land use approvals and permits ready to be issued;
 - all financing necessary to construct the project has closed or will close simultaneous with the Closing;
 - entered into a non-remonstrance agreement with respect to the anticipated Local Improvement Districts (LIDs) contemplated or necessary to implement the Framework Plan; and
 - prepared a transportation management plan that addresses transportation impacts of the Project and encourages use of walking, bicycling, mass transit, car sharing, and electric vehicles for presentation to the Central Eastside Industrial Council (CEIC) or other appropriate neighborhood organization.
- KDC to construct a privately-owned building which will be approximately 12 stories and 205,000 square feet (SF), and include approximately 292 market rate apartments, 11,000 SF commercial space, and 175 structured parking spaces which will be designed to achieve a minimum Leadership in Energy and Environmental Design (LEED) Silver designation; and
- KDC to be responsible for compliance with all environmental laws.

COMMUNITY AND PUBLIC BENEFIT

Public benefits of executing the DDA include:

- The disposition of the Property will generate \$1.65 million in land sale proceeds which can be allocated by PDC to other project and program priorities within the CESURA;
- The Property will be redeveloped without direct financial assistance from PDC;
- The Property will be redeveloped with a privately-owned market rate apartment building that is estimated to generate between \$450,000 and \$550,000 per year in property tax revenues;
- PDC's Business and Workforce Equity (BWE) Policy will apply to the construction of the project, ensuring fair and equitable opportunities for Portland's diverse populations, promoting prosperity in all segments of Portland's diverse communities, and expanding competition in the market;
- KDC will comply with PDC's Green Building Policy since sustainability is one of the key goals identified in the Framework Plan; and
- Development of the Property will further implement the Framework Plan and build upon other recent activities, including completion of the Eastside Burnside-Couch Couplet in 2010, completion of the Eastside Portland Streetcar Loop in 2012, and the recent conveyance of the Convention Plaza building to Beam Development in 2012.

PUBLIC PARTICIPATION AND FEEDBACK

The Framework Plan was prepared with the advice and consultation of a 15-member Citizen Advisory Committee (CAC). The Framework Plan set the stage for redevelopment of the entire four-block area. Three members of the CAC served on the evaluation panel that selected KDC as the preferred developer for Block 67. Since that time, PDC staff has been working with KDC to refine the scope of the project and agree to terms of a DDA. PDC staff has periodically provided updates on the status of the project to the CES Urban Renewal Advisory Committee (CESURAC) and project stakeholders.

In November 2012, PDC provided a written update and fact sheet on the proposed DDA to stakeholders, including members of the CEIC, Burnside Bridgehead CAC, and CESURAC, and requested feedback. Generally, project stakeholders have been supportive of the planned development and DDA, especially in regard to the fact that PDC will not be providing any financing for the Project and the Project will result in significant property tax revenues for the taxing jurisdictions. Some stakeholders have requested that PDC ensure the project has sufficient parking on site so as to not negatively impact parking in the district. As noted above, KDC is proposing to build approximately 290 apartments and 175 parking spaces. In addition, prior to conveyance of the property, KDC will be required to prepare a transportation management plan that will address the transportation impacts of the project and encourage the use of mass transit, bicycling, car sharing, and short-term vehicle rental services (i.e., Zipcar). The DDA requires KDC to present the transportation management plan to the Central Eastside Industrial Council (CEIC) or similar appropriate neighborhood organization prior to Closing.

BUDGET AND FINANCIAL INFORMATION

The CESURA FY 12-13 Adopted Budget currently includes funds for ongoing ownership, maintenance, and disposition of the entire Burnside Bridgehead Property (Attachment B). Specific to Block 67, the approved budget assumes \$1 million in revenue from the sale of the Property and a \$1 million grant or loan to support redevelopment efforts. Since the proposed action includes a \$1.65 million purchase price and no PDC grants or loans, the budget will be amended to be consistent with the terms of the DDA.

This action will provide PDC with approximately \$1.65 million in additional financial resources which can be invested in other projects and programs. As noted in the table below, PDC will more than recover the acquisition and holding costs of this property through this DDA.

	PDC Costs and Revenues	PDC Costs	PDC Revenues	PDC Costs minus Revenues
Sunk Cost/ Revenue	Purchase price paid for acquisition	\$451,200	\$0	
	Other costs during acquisition	\$73,600	\$0	
	Holding costs/revenues to date	\$32,800	\$99,900	
	Other costs/revenues during holding period	\$70,000	\$0	
	Subtotal	\$627,600	\$99,900	\$527,700
Estimated Cost/ Revenue	Estimated costs/revenues to maintain until proposed disposition	\$10,000	\$27,300	
	Estimated total disposition and development costs to PDC	\$5,000	\$0	
	Estimated total disposition and development revenues to PDC	\$0	\$1,650,000	
	Subtotal	\$15,000	\$1,677,300	(\$1,662,300)
Total		\$642,600	\$1,777,200	(\$1,134,600)

RISK ASSESSMENT

Entering into this DDA creates minimal risks for PDC since PDC is selling the Property for fair market value and does not have financial resources at risk. The primary risk for PDC is that the proposed development will not be realized in accordance with the terms of the DDA as follows:

1. **Due Diligence Period.** There is a risk that KDC will terminate the transaction during the Due Diligence Period. This risk is relatively minor and has been mitigated to the extent possible by PDC through prior due diligence efforts. The Due Diligence Period is 120 days, which is a reasonable but not excessive length of time for KDC to make a decision to proceed with the development.
2. **Prior to Closing.** There is a risk that KDC will not diligently complete the Project prior to Closing. This is mitigated by (a) the Earnest Money Deposit, which is equal to 5.4 percent of the purchase price, and (b) the ability for PDC to terminate the agreement, among other remedies, if KDC misses pre-Closing deadlines by more than 30 days in accordance with the Schedule of Performance.
3. **Closing Extension.** In the event the Closing Date is extended by mutual agreement for six months or more beyond the original Closing Date, the purchase price will be increased to reflect the Consumer Price Index from the Effective Date, or to reflect an updated appraisal, the costs

of which will be borne entirely by KDC. In no event will the purchase price be less than \$1.65 million.

4. **Subsequent to Closing.** In the event KDC is not able to complete the project subsequent to Closing, PDC has the right to re-enter the Property.

In addition to the above risks, KDC's expectation to raise \$15 million of the Project's financing through the EB-5 Program creates the following risks for the project:

Schedule. The Schedule of Performance calls for KDC to have all financing in place prior to Closing, which is within 18 months of the Effective Date. We view this schedule as relatively aggressive considering KDC's EB-5 partner, Columbia Willamette Investment (CWI), has not yet been designated a Regional Center by USCIS. CWI submitted its Regional Center application to USCIS on July 25, 2012.

Job Creation and Investor Attractiveness. EB-5 financing is dependent upon the ability of the Project to retain or create new jobs and the ability to generate sufficient confidence in the project to attract foreign investors. Residential projects, such as the Project, have not been a significant source of EB-5 financing in the United States since they do not directly retain or attract new jobs in the same way that commercial or industrial projects do. To be eligible for EB-5 financing, residential projects must demonstrate the ability to create sufficient construction jobs that last at least two years and/or indirect jobs.

KDC has submitted a report prepared by ECONorthwest indicating the Project is anticipated to create 367 indirect full time equivalent (FTE) jobs. KDC has based its projections to raise the \$15 million in EB-5 financing on these 367 indirect FTE jobs. In addition, CWI representative Black Helderline LLP has submitted a letter to PDC indicating the Project "is the type of project that attracts foreign investors."

PDC staff has discussed these risks with KDC. KDC has alternative financing plans involving other sources of equity in the event the EB-5 financing process proceeds more slowly than anticipated or is determined to be infeasible.

ALTERNATIVE ACTIONS

The Board could decide to:

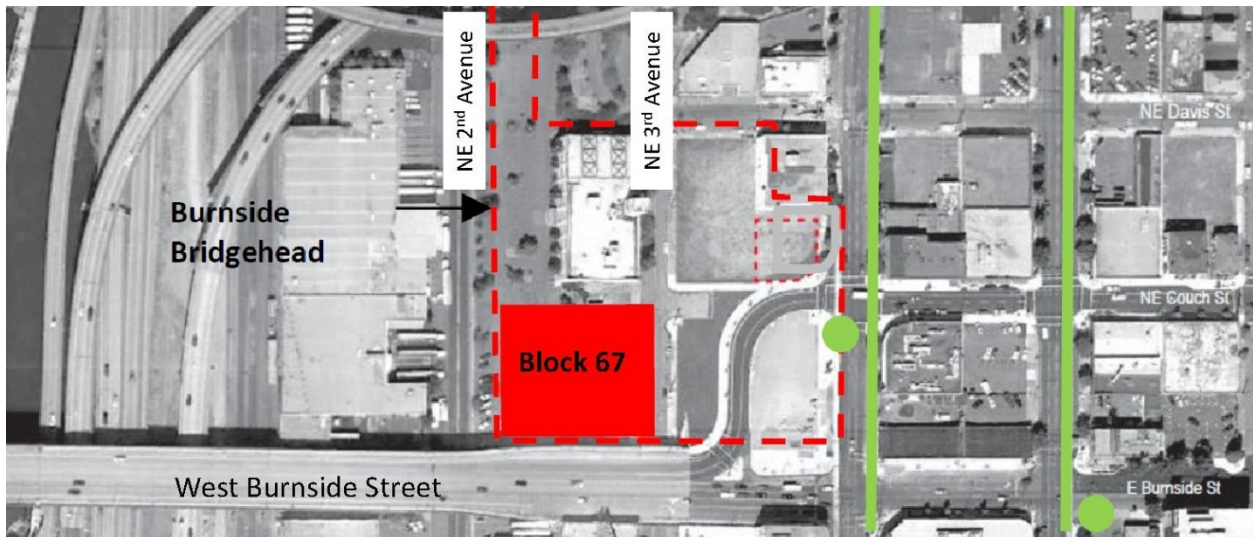
- Direct staff to incorporate new terms or changes to the terms and conditions into the DDA;
- Direct staff to renegotiate specific terms and conditions; or
- Terminate the disposition process.

ATTACHMENTS

- A. Project Summary
- B. CESURA Adopted FY 2012-13 Budget
- C. Burnside Bridgehead Fact Sheet

PROJECT SUMMARY

- Project Name:** Burnside Bridgehead Block 67 Disposition and Development Agreement
- Description:** 0.76-acre vacant parcel zoned Central Employment with Design Review Overlay (EXd).
- Location:** Central City at East Burnside Street (Burnside Bridge), NE 2nd Avenue, and NE 3rd Avenue
- URA:** Central Eastside
- Current Phase:** Disposition
- Next Milestone:** Closing/Conveyance
- Completion Target:** December 2013
- Outcome:** Conveyance of Burnside Bridgehead Block 67 to Key Development Corporation for development of a 12-story, 205,000 square foot building with 292 market rate apartments, ground floor retail, and 175 structured parking spaces.



URA Financial Summary

Five-Year Forecast Project Requirements Detail

	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Central Eastside URA						
Resources						
Beginning Fund Balance	2,187,879	1,357,972	846,252	1,091,330	891,288	331,966
Interest on Investments	25,000	13,580	8,463	10,913	8,913	3,320
Loan Collections	184,840	621,633	167,257	327,187	192,676	187,845
Long Term Debt	3,200,000	0	0	0	1,000,000	0
Property Income	2,620,000	1,020,000	20,000	20,000	20,000	20,000
Short Term Debt	2,835,087	2,682,053	2,804,835	2,894,106	3,039,572	2,810,927
Total Fund Resources	11,052,806	5,695,238	3,846,807	4,343,536	5,152,449	3,354,058
Requirements						
Program Expenditures						
Administration						
Financial Administration						
A45101355 Debt Management-CES	18,000	18,000	18,000	18,000	18,000	18,000
Administration Total	18,000	18,000	18,000	18,000	18,000	18,000
Business Dev						
Cluster Industry Development						
B15100355 Cluster Development-CES	50,000	50,000	50,000	50,000	50,000	50,000
B15102355 Site Recruitment-CES	38,000	38,000	38,000	0	0	0
T01205355 OMEP-Lean Manufacturing-CES	50,000	0	0	0	0	0
Business Lending						
L02100355 BIF-General-CES	600,000	700,000	700,000	600,000	600,000	600,000
Small Business & Entrepreneurs						
B55806355 CES Entrepreneurial District-C	150,000	150,000	150,000	150,000	0	0
Business Dev Total	888,000	938,000	938,000	800,000	650,000	650,000
Infrastructure						
Parks						
N35514815 Eastbank/Asset Trnsfr-CES-Adm	155,000	10,000	0	0	0	0
Public Facilities						
N35525215 Community Center-CES-Adm	0	0	0	0	0	985,000
Transportation						
N35534115 Eastside Streetcar-CES-Adm	3,000,000	0	0	0	0	0
N35534215 East Streetcar LID-CES-Adm	0	122,759	0	0	0	0
N35534315 New Water Ave-CES-Adm	0	250,000	0	0	0	0
Infrastructure Total	3,155,000	382,759	0	0	0	985,000
Portland Hsg Bureau						
PHB Housing						
H15430355 Affordable Rental Hsg-CES	0	0	0	1,000,000	2,500,000	0
H15900355 PHB Staff & Admin-CES	96,549	34,937	35,247	87,857	150,008	83,963
Portland Hsg Bureau Total	96,549	34,937	35,247	1,087,857	2,650,008	83,963
Property Redev						
Commercial Property Redevelopm						
A35401355 Central City 2035-CES	45,910	0	0	0	0	0
P35552215 CC 2035-CES-Adm	0	33,428	0	0	0	0
P35557215 Burnside Bridgehd Rdv-CES-Adm	2,500,000	1,000,000	0	0	0	0
P35557315 Burnside Bridgehd Mgt-CES-Adm	75,000	75,000	75,000	0	0	0
P35591015 Public Outreach-CES-Adm	11,000	11,000	11,000	11,000	11,000	11,000
P35592015 Real Estate Mgmt-CES-Adm	18,000	18,000	18,000	18,000	18,000	18,000
Commercial Real Estate Lending						
R01100355 CPRL-General-CES	400,000	600,000	600,000	600,000	600,000	600,000
Community Redevelopment Grants						
G02100355 DOS-General-CES	150,000	100,000	100,000	100,000	100,000	100,000
G03100355 SIP-General-CES	300,000	200,000	200,000	200,000	200,000	200,000
Property Redev Total	3,499,910	2,037,428	1,004,000	929,000	929,000	929,000

Five-Year Forecast Project Requirements Detail

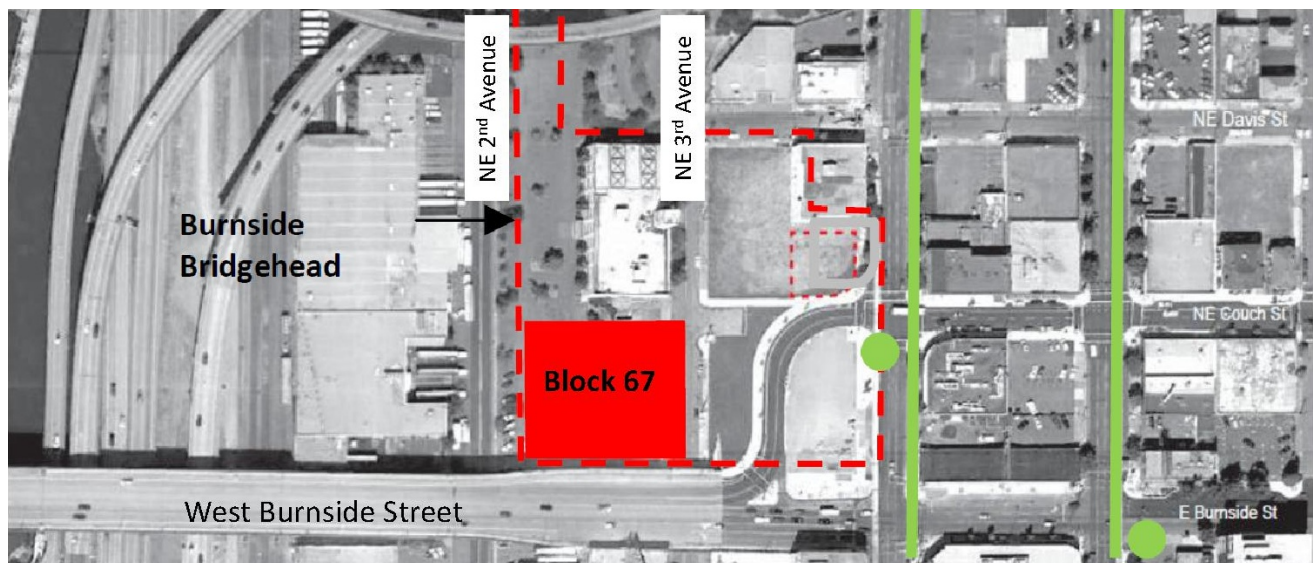
	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Total Program Expenditures	7,657,459	3,411,124	1,995,247	2,834,857	4,247,008	2,665,963
Personal Services	516,686	585,546	186,856	151,748	140,954	130,941
Transfers - Indirect	1,520,689	852,316	573,374	465,643	432,521	401,799
PHB Staff/Admin	0	0	0	0	0	0
Total Fund Expenditures	9,694,834	4,848,986	2,755,477	3,452,248	4,820,483	3,198,703
Contingency	1,357,972	846,252	1,091,330	891,288	331,966	155,355
Ending Fund Balance	0	0	0	0	0	0
Total Requirements	11,052,806	5,695,238	3,846,807	4,343,536	5,152,449	3,354,058

Burnside Bridgehead Block 67 Redevelopment Project Fact Sheet

Location and Property Information The Burnside Bridgehead Block 67 is a 0.76 acre (33,184 square foot) parcel owned by the Portland Development Commission (PDC). The property is located immediately adjacent to the Burnside Bridge, and is bounded by NE 2nd Avenue to the west, West Burnside Street to the south, NE 3rd Avenue to the east, and the Convention Plaza property to the north. The Burnside Skate Park is located under the Burnside Bridge immediately south of Block 67.

The property is zoned EXd, Central Employment with Design Review Overlay, and has a fair market value of \$1.65 million based on a 2012 appraisal. The east half of the property is vacant, and the west half of the property is used as a commercial surface parking lot.

Burnside Bridgehead PDC acquired the property in 1999 and 2006, along with adjacent parcels (Blocks 68, 75, and 76), to implement a multi-block redevelopment project known as the Burnside Bridgehead. The PDC Board adopted the Burnside Bridgehead Framework Plan (Framework Plan) in May 2010. PDC subsequently issued a Request for Interest (RFI) in July 2010 to developers to solicit interest in the property consistent with the Framework Plan. In addition to the RFI, other activities that have implemented the Framework Plan include: (1) completion of the East Burnside-Couch Couplet in 2010; (2) completion of the Eastside Portland Streetcar Loop in 2012; and (3) in October 2012, PDC transferred ownership of the Convention Plaza Building to Beam Development. Renovation of that building is currently under way.



Block 67 Redevelopment Project As a result of the 2010 RFI, Key Development Corporation (KDC) was selected as the preferred developer for Block 67. PDC entered into a Memorandum of Understanding with KDC on April 4, 2011 to pursue development of a mixed-use project. Since that time, KDC and PDC have refined the scope of the redevelopment project and the terms under which PDC will sell the property to KDC. These terms will be incorporated into a Disposition and Development Agreement (DDA), which will be considered for approval by the PDC Board on December 12, 2012.

PDC anticipates selling the property to KDC for the fair market value of \$1.65 million. PDC does not anticipate providing financial resources, such as grants or loans, to KDC.

KDC anticipates constructing a 12-story, 200,000 SF building with about 290 market rate apartments, 11,000 square feet of commercial retail space to activate NE 3rd Avenue and the Couch Street stairs (to be constructed by Beam Development as part of the renovation of Convention Plaza), and 175 parking spaces on the east half of the block. KDC will refine the scope of the project through the design and

permitting process. KDC does not currently have a specific development program for the west half of the block but will be required by the DDA to develop the block consistent with the Framework Plan to the extent feasible.

In addition to redeveloping the east half of the block, the DDA will require KDC to:

- Design the building to achieve a minimum LEED Silver certification;
- Prepare a transportation management plan to encourage walking, biking, and transit use for presentation to the Central Eastside Industrial Council (CEIC) or other appropriate neighborhood organization; and
- Agree to non-remonstrance agreement regarding Burnside Bridgehead Local Improvement Districts (LIDs) to provide the infrastructure called for in the Framework Plan.

PDC will continue to own the property until such time as KDC has completed the design and permitting process and has construction financing in place. Construction is anticipated to begin in late 2013 and be completed in mid-to-late 2015.

Project Schedule

- | | |
|---|-------------------|
| • DDA between PDC and KDC | December 2012 |
| • Project Design, Permitting, and Financing | 4Q 2012 – 1Q 2014 |
| • Construction: | 4Q 2013 – 3Q 2015 |
| • Opening: | 4Q 2015 |

Opportunities for Public Input

- **Written Comments:** Provide written comments on the proposed redevelopment project and DDA to:

Eric Jacobson
Portland Development Commission, 222 NW Fifth Avenue; Portland, OR 97209
jacobson@pdc.us
(503) 823-3306

Written comments received by **November 30, 2012** will be incorporated into the staff report provided to the PDC Board in advance of their December meeting.

- **PDC Board of Commissioners:** Provide verbal or written comments on the proposed redevelopment project and DDA to the PDC Board of Commissioners on **Wednesday December 12, 2012**, 8-10:30 am, at 222 NW Fifth Avenue, Portland.
- **Design Review:** Since the property is located in a Design Review overlay district, interested citizens will have the opportunity to review and comment on the project design through the City of Portland's Design Review process which will take place January 2013 – January 2014.