

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7079

AUTHORIZING A PURCHASE AND SALE AGREEMENT TO CONVEY 0.80 ACRES OF REAL PROPERTY IN THE RIVER DISTRICT URBAN RENEWAL AREA TO WILLIAMS/DAME & ASSOCIATES, INC., FOR \$5,500,000

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

WHEREAS, PDC is the owner of a 0.80 acre parcel (“Station Place Lot 5”) bounded on the west by NW 9th Avenue and on the south by NW Northrup Street;

WHEREAS, PDC acquired Station Place Lot 5 on October 22, 1987, as part of the larger Union Station purchase from Portland Terminal Railroad Company, to implement a multi-block mixed-use redevelopment;

WHEREAS, on June 30, 2014, PDC received an unsolicited offer from Williams/Dame Associates, Inc. (“Developer”), to purchase Station Place Lot 5, for the purpose of developing a mixed-use office/retail building;

WHEREAS, PDC issued a public Notice of Intent to Negotiate regarding the unsolicited offer and provided 20 days for public comment wherein no objections were received; and

WHEREAS, PDC and Developer have negotiated a Purchase and Sale Agreement (“PSA”), to convey Station Place Lot 5 to Developer for a purchase price of Five Million Five Hundred Thousand Dollars (\$5,500,000), the proceeds of which shall be spent, in part, on the environmental remediation requirements of Station Place Lot 5.

NOW, THEREFORE, BE IT RESOLVED, that the PDC Board of Commissioners authorizes the Executive Director to execute a PSA, in substantially the form set forth in Exhibit A;

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

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

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 7079

EXHIBIT A

**AUTHORIZING A PURCHASE AND SALE AGREEMENT TO CONVEY 0.80
ACRES OF REAL PROPERTY IN THE RIVER DISTRICT URBAN RENEWAL
AREA TO WILLIAMS/DAME & ASSOCIATES, INC., FOR \$5,500,000**

Exhibit A includes this cover page and contains 37 pages:

- Agreement for Purchase and Sale of Property in the River District Urban Renewal Area between the Portland Development Commission and Williams/Dame & Associates, Inc.
 - Exhibit A: Definitions
 - Exhibit B: Legal Description of the Property
 - Exhibit C: Permit of Entry
 - Exhibit D: Form of Deed
 - Exhibit E: Business and Workforce Equity Policy
 - Exhibit F: Environmental Due Diligence Reports

AGREEMENT FOR PURCHASE AND SALE OF PROPERTY

IN THE RIVER DISTRICT URBAN RENEWAL AREA

between

THE PORTLAND DEVELOPMENT COMMISSION

and

WILLIAMS/DAME & ASSOCIATES, INC.

dated

_____, 2014

AGREEMENT FOR PURCHASE AND SALE OF PROPERTY

(Lot 5 – Station Place)

This AGREEMENT FOR PURCHASE AND SALE OF PROPERTY (this “Agreement”) is made and entered this ___ day of _____ 2014 (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 WILLIAMS/DAME & ASSOCIATES, INC., an Oregon corporation, or its assignee (“Buyer”). PDC and Buyer 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, and the River District Urban Renewal Plan, PDC acquired certain real property within the URA known as “Lot 5 of Station Place”, as more particularly described in Section 2.2 (the “Property”).
- B. The Property is unimproved and is bounded by NW 9th Avenue, NW Northrup Street, and Union Station.
- C. An affiliate of Buyer is the owner of a 223-room Marriott Residence Inn located at the corners of NW Ninth and NW Marshall in The Pearl District of Portland, Oregon, which is adjacent to the Property. Buyer can utilize excess floor area ratio from the Marriott Residence Inn site to develop an office building larger than what would be allowed utilizing only the base FAR associated with the site.
- D. PDC requires that the Property be developed as an office building, with ground floor retail, in order to help stimulate the Portland economy and provide space for new and expanding businesses. Buyer has made an offer to purchase the Property and intends to develop an office building of approximately nine stories with approximately 170,000 rentable square feet and approximately 10,000-20,000 rentable square feet of retail space on the ground floor (the “Proposed Development”). Both Buyer and PDC agree that the building of the Proposed Development will stimulate the economic and physical vitality of the surrounding area.
- E. Buyer desires to purchase, and PDC desires to sell, the Property according to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, 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; *provided, however*, that once a term is defined it may be used as the first word of a sentence. Some defined terms are first defined in the text of this Agreement and some are first defined in Exhibit A, which is a glossary of defined terms not defined in the text of this Agreement. 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 A, 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 Purchase and Sale. PDC agrees to sell and convey the Property to Buyer, and Buyer agrees to purchase the Property from PDC, and to 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 consists of the following: The land comprised of approximately 34,808 square feet and bounded by NW 9th Avenue, NW Northrup Street and Union Station in The Pearl District in Portland, Oregon, and commonly known as “Lot 5 of Station Place”, as more particularly described in Exhibit B attached hereto (the “Land”), together with: (a) 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; (b) all improvements, equipment, fixtures or other personal property of every kind located on the Land, if any, including, without limitation all buildings and structures presently located on the Land; and (c) any and all permits, warranties, intangible property and any other similar personal property assets owned by PDC with respect to the Land and the improvements thereon.

2.3. Earnest Money Deposit. Within three (3) Business Days of the Effective Date and subject to the terms of this Section 2.3, Buyer shall deposit with the Escrow Agent an amount equal to \$200,000.00 (the “Escrow Deposit”). The Escrow Deposit shall be fully refundable to Buyer, except as provided below, and shall be applicable to the Purchase Price. The Escrow Agent (as defined in Section 5.7.1) 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. Except as contemplated in Sections 2.6, 2.7, 4.4 and 12 if this Agreement is terminated by Buyer following the expiration of the Due Diligence Period, PDC shall retain the Escrow Deposit as compensation for such termination by Buyer.

2.4. Purchase Price. The purchase price for the Property is Five Million Five Hundred Thousand and No/100 Dollars (\$5,500,000.00) (the “Purchase Price”).

2.5. AS IS Sale. Prior to the Closing Date, Buyer will have examined and investigated or will have had the opportunity to examine and investigate the Property to its own satisfaction and will have formed its own opinion as to the condition (including environmental condition) and value thereof. Except for express statements contained in Section 3.1 or elsewhere in this Agreement, Buyer has not relied on any statements or representations from PDC or any person acting on behalf of PDC concerning any of the following: (a) the size or area of the Property; (b) the location of corners or boundaries of the Property; (c) the condition of the Property, including but not limited to, physical or geotechnical properties above or below the surface of the Property or the Environmental Condition adjacent, above or below the surface of the Property (including without limitation releases or threatened releases of hazardous or regulated substances) or compliance with Environmental Laws and other governmental requirements; (d) the availability of services to the Property; or (e) the ability of Buyer to use the Property or any portion thereof for any intended purpose. Buyer is acquiring the Property, in the condition existing at the time of Closing, AS IS, with all defects, if any, and for breach of any representation set forth in Section 3.1, Buyer waives, releases and forever discharges PDC and PDC’s successors and assigns, of and from all claims, actions, causes of action, fines, penalties, damages (including consequential, incidental and special damages), costs (including the cost of complying with any judicial or governmental order), and expenses (including attorney fees), direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way grow out of or in connection with any physical characteristic or condition of the Property, including any surface or subsurface condition, or any law, rule or regulation applicable to the Property.

2.6. Access, Inspection and Due Diligence Materials

2.6.1. Access and Inspection. PDC has provided access to the Property to Buyer and agrees that Buyer and its authorized agents or representatives shall be entitled to enter upon the Property to make such investigations, studies and tests as Buyer deems necessary or advisable, as more specifically set forth in the form of Permit of Entry attached hereto as Exhibit C (the “Permit of Entry”).

2.6.2. Due Diligence Materials. Buyer has obtained a preliminary title report or reports issued by Chicago Title Insurance Company covering the Property, with the exception documents referenced in such report or reports (collectively, the “Title Report”). Within fifteen (15) Business Days of the Effective Date, PDC will provide to Buyer copies of all studies, reports, site analyses, engineers certificates, existing surveys, 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: (a) all Environmental Due Diligence Reports and any other site analyses with respect to oil, asbestos, underground storage tanks, Hazardous Materials, lead paint, or lead plaster; and (b) any reports regarding compliance with laws (including, but not limited to, ADA, zoning and all other land use

matters) (collectively, the “Due Diligence Materials”). Notwithstanding the above, PDC represents only that the materials made available are all the Due Diligence Materials known to Steve Blank and Colin Polk, the two PDC employees with the greatest personal knowledge of the Property. PDC shall not be liable for failure to make available Due Diligence materials unknown to Mr. Blank and Mr. Polk.

2.6.3. Due Diligence Period. Buyer shall notify PDC no later than one hundred and fifty (150) days after the Effective Date (as, and if extended, the “Due Diligence Period”) of the results of its due diligence. If Buyer’s due diligence shall reveal any matters which are not acceptable to Buyer in Buyer’s sole and absolute discretion, Buyer may elect, by written notice to PDC, on or before 5:00 p.m. on the expiration of the Due Diligence Period, not to proceed with the transaction contemplated herein, in which event this Agreement shall be null and void without recourse to either Party and the Escrow Deposit shall be refunded to Buyer within two (2) Business Days of such notice. The failure of Buyer to timely provide notice to PDC of Buyer’s satisfaction with due diligence prior to the expiration of the Due Diligence Period shall be deemed Buyer’s decision to terminate this Agreement.

2.7. Title Review.

2.7.1. Buyer will have until the date that is thirty (30) days after the Effective Date to notify PDC in writing if Buyer objects to any item in the Title Report. Those items to which Buyer does not object are “Permitted Exceptions”. If Buyer objects to any item, then PDC shall have twenty (20) days after receiving Buyer’s written objection to notify Buyer in writing of its intention to remove or not remove the objected to exceptions to title prior to Closing (the “Seller Response Period”). If PDC does not respond to Buyer’s objections within the Seller Response Period or if PDC refuses to remove any such objected to exceptions, Buyer shall have until the expiration of the Due Diligence Period to terminate this Agreement by written notice to PDC. If Buyer terminates this Agreement under this Section 2.7.1, no remedies shall accrue to either Party and all rights and obligations of the Parties under this Agreement shall terminate and the Escrow Deposit shall be refunded to Buyer within two (2) Business Days of such notice by Buyer. If this Agreement is not so terminated, the Permitted Exceptions shall also include those exceptions, if any, that Buyer originally objected to and that PDC refused to remove or failed to respond to.

2.7.2. Buyer may obtain one or more updates to the Title Report on the Property at any time prior to the Closing. Buyer shall promptly give to PDC a copy of any updated Title Report. Within twenty (20) days after receiving an updated Title Report, Buyer 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 Buyer’s written notice to PDC described in the preceding sentence (the “Seller’s Secondary Response Period”), PDC shall notify Buyer 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 Buyer's objections within the Seller's Secondary Response Period or if PDC refuses to remove any such objected to exceptions, Buyer shall have twenty (20) days following expiration of the Seller's Secondary Response Period to terminate this Agreement by written notice to PDC. If Buyer terminates this Agreement under this section 2.7.2, no remedies shall accrue to either Party and all rights and obligations of the Parties under this Agreement shall terminate and the Escrow Deposit shall be refunded to Buyer within two (2) days of such notice by Buyer. If this Agreement is not so terminated, the exceptions that Buyer objected to and that PDC refused to remove or failed to respond to will be included as Final Permitted Exceptions. Any exceptions that Buyer accepts at Closing are the "Final Permitted Exceptions." The Closing Date will be automatically extended if and as necessary to accommodate the time periods set forth in this Section 2.7.2.

2.7.3. Notwithstanding anything to the contrary set forth in this Section 2.7, PDC shall remove from the Property prior to Closing all Monetary Liens. As used in this Agreement, "Monetary Liens" means, collectively; (a) any deeds of trust and/or mortgages; (b) any judgment liens affecting the Property; (c) any other monetary liens of record against the Property other than for (i) local improvement district ("LID") assessments not levied or assessed as of the Effective Date, and (ii) for work performed by or at the direction of Buyer. PDC shall not cause or take any action that may result in any new Monetary Liens being levied or recorded against the Property prior to the Closing Date.

2.8. Title Insurance. PDC will pay the cost of a standard coverage Owner's Policy of Title Insurance, issued by Escrow Agent, covering the Property when conveyed, and insuring Buyer in the amount of the Purchase Price, free and clear of encumbrances, except the Final Permitted Exceptions. Buyer, 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 Buyer to obtain such coverage.

3. REPRESENTATIONS

3.1. PDC Representations. PDC's representations in this Section 3.1 are limited to the following. PDC hereby represents to Buyer 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. No further consent of any creditor, investor, judicial or administrative body, governmental authority or other party is required.

3.1.2. Except as has been disclosed to Buyer in the Environmental Due Diligence Reports and otherwise in Section 6 below, 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.

- 3.1.3.** PDC has not received notice of the Release of any Hazardous Substances on the Property, and PDC received a no further action letter from DEQ (defined in Section 6 below) for remediation work conducted on the Property by PDC.
- 3.1.4.** PDC is not a “foreign person” within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.
- 3.1.5.** There is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending, or to PDC’s knowledge, threatened, which may affect the Property or PDC’s ability to perform its obligations under this Agreement, other than has been previously disclosed in writing to Buyer.
- 3.1.6.** To PDC’s knowledge and except as otherwise disclosed in writing to Buyer 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, including all environmental laws (collectively, “Laws”).
- 3.1.7.** PDC has not received any notice stating that the Property is in violation of any applicable laws, rules, regulations, ordinances or other governmental requirements.
- 3.1.8.** PDC is the legal and beneficial fee simple titleholder to the Property and 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.** There are no leases or service contracts that affect the Property that are not terminable at the Closing, and there are no options to purchase the Property or rights of first refusal to purchase the Property. 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.** 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.
- 3.1.11.** 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.

3.1.12. No representation 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 or statement not misleading.

3.1.13. 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. Buyer Representations. Buyer's representations under this Agreement are limited to the following. Buyer hereby represents to PDC as of the Effective Date and as of the Closing Date the following:

3.2.1. Buyer is a corporation duly formed and existing in the State of Oregon.

3.2.2. Buyer 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 Buyer 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 Buyer are and shall be valid, legally binding obligations of and enforceable against Buyer 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 Buyer is a party.

3.2.5. No representation, or statement of Buyer 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. The persons executing this Agreement and the instruments referred to herein on behalf of Buyer have the legal power, right and actual authority to bind Buyer to the terms and conditions of this Agreement.

The Parties agree that all representations contained in this Section 3 shall survive the Closing for a period of twelve (12) months.

3.3. PDC Covenants. PDC hereby covenants and agrees that between the Effective Date and Closing, PDC shall: (a) ensure that the Property is maintained in a manner consistent with current practices; (b) maintain reasonable and customary levels and coverages of insurance; (c) not create or acquiesce in the creation of liens or other exceptions to title other than the Permitted Exceptions or any modification thereto; (d) not lease, transfer, option, or convey its interest in the Property or any portion thereof nor any right therein, nor shall PDC enter into or solicit any agreement granting to any person or entity any option to purchase or rights superior to Buyer with respect to the Property or any part thereof; (e) not voluntarily take any action to render any of the representations or warranties of PDC set forth in Section 3.1 materially incorrect; or (f) enter into any maintenance, management or service agreement that will remain in force and effect after the Closing Date. Notwithstanding the foregoing clause (iv), PDC may lease, license or transfer its interest in the Property if (i) any such lease, license or transfer expires prior to the Closing Date, or (ii) Buyer consents in writing, which consent shall not be unreasonably withheld, conditioned or delayed.

4. CONDITIONS PRECEDENT TO CLOSING

4.1. Conditions. Buyer and PDC are not obligated to proceed with the conveyance of the Property to the Buyer 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. To the extent the failure of a condition to be satisfied occurs and such failure of the satisfaction of such condition constitutes a default under this Agreement, the non-defaulting party shall have all rights and remedies against the defaulting party that are available to such non-defaulting party under this Agreement.

4.1.1. To the reasonable satisfaction of both PDC and Buyer, which conditions must be waived in writing by both PDC and Buyer if not satisfied:

- (i) No litigation is pending that prevents PDC or Buyer from performing their respective obligations under this Agreement.

4.1.2. To Buyer's reasonable satisfaction, which conditions may be waived in writing solely by Buyer if not satisfied:

- (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.

- (iii) Title Company is prepared to issue to Buyer the form of Title Insurance selected by Buyer under Section 2.8, covering the Property in an amount equal to the Purchase Price, subject only to the Final Permitted Exceptions.
- (v) The Parties shall have agreed upon the form and substance of a lease agreement (the “Parking Agreement”) which gives Buyer and its successors and assigns the right to lease at least ninety-nine (99) spaces in the Station Place Parking Garage for a period of at least forty (40) years at the monthly rate charged to the general public, with reasonable annual adjustments thereafter. The term of the Parking Agreement shall commence on the Closing Date.

4.1.3. To PDC’s reasonable satisfaction, which conditions may be waived in writing solely by PDC if not satisfied:

- (i) Buyer has provided to PDC documentation that:
 - (a) Buyer is a legal entity qualified to do business in the state of Oregon;
 - (b) Buyer has full power and authority to enter into and perform its obligations under this Agreement; and
 - (c) This Agreement has been executed and delivered, for and on behalf of Buyer, by an authorized individual.
- (ii) Buyer 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 Buyer under this Agreement.

4.2. Elections upon Non-Satisfaction of Conditions. If any condition in this Section 4 is not fulfilled to the satisfaction of the benefited Party or Parties as of the Closing Date (as extended, or such later date, if any, designated pursuant to Section 4.2(c) below, or determined in accordance with Section 4.3), then such benefited Party or Parties may elect as follows:

- (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 Closing Date or (b)

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Agreement for Purchase and Sale of Property – Lot 5 of Station Place

such later date, if any, designated pursuant to Section 4.2(c), then this Agreement shall terminate thirty (30) 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 30-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. If this Agreement terminates or is terminated for failure of fulfillment of the conditions precedent to the Closing and Buyer is not in default under this Agreement, then PDC shall refund to Buyer the Escrow Deposit. 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 (the "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. If 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. Unless extended by mutual agreement of the Parties or pursuant to Section 5.2.2, the Closing shall occur on the date that is twelve (12) months after expiration of the Due Diligence Period (as may be extended, the "Closing Date").

5.2.2. Buyer may exercise up to two (2), sixty (60) day extensions of the Closing Date by delivering to PDC written notice of the exercise of such extension prior to the then-applicable Closing Date, and contemporaneously depositing with the Title Company a fee in the amount of Fifty-Five Thousand and No/100 Dollars (\$55,000) (each, an "Extension Fee" and collectively, the "Extension Fees"). If Buyer does not exercise the first extension, it shall not have the right to exercise the second extension. Neither Extension Fee will be applicable to the Purchase Price. Except in the event of a default by PDC under this Agreement, both Extension Fees shall be non-refundable.

5.3. Payment of the Purchase Price. Subject to satisfaction of the conditions precedent to Closing set forth above, and subject to a credit for the Escrow Deposit, and the adjustments specified herein, at the Closing Buyer shall pay the Purchase Price to PDC in immediately available funds.

5.4. Conveyance by Deed. Subject to satisfaction of the conditions precedent to Closing set forth above and upon Buyer's compliance with the terms of Section 5.3 above, at the Closing, PDC will convey the Property to Buyer by a Bargain and Sale Deed, substantially in the form attached hereto as Exhibit D (the "Deed").

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

5.5.1. An original Deed, duly executed and acknowledged by PDC.

5.5.2. An original certificate of non-foreign person duly executed by PDC and notarized in a form reasonably acceptable to Buyer.

5.5.3. If requested by Buyer prior to Closing, an original assignment of permits, warranties and intangibles in a form reasonably acceptable to both PDC and Buyer.

5.5.4. An original Parking Agreement, duly executed and acknowledged by PDC.

5.5.5. 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 Buyer.

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

5.6. Documents and Sums to Be Deposited Into Escrow by Buyer. On or before the Closing Date, Buyer shall deposit such funds (by wire transfer) as are necessary to complete payment of the Purchase Price less the amount of the Escrow Deposit and as adjusted for Buyer's share of the Closing costs and pro-rations as described in Section 5.7. Buyer shall also deposit an original of the Parking Agreement and such other documents as the Escrow Agent may require to complete the sale of the Property as contemplated by this Agreement.

5.7. Prorations and Costs.

5.7.1. Closing Costs. The costs for recording the Deed shall be shared equally by Buyer and PDC. The costs for recording any other documents required by Buyer to be recorded will be paid by Buyer. Each Party shall pay one-half of all escrow fees charged by Chicago Title Company (the "Escrow Agent"). The cost of Title Insurance shall be paid in accordance with Section 2.8. All other Closing costs, if any, shall be allocated in accordance with the customary practice in Multnomah County.

5.7.2. 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, and assessments that relate to the Property and are owing as of the Closing, whether or not those taxes or assessment would constitute a lien against the Property at Closing, shall be satisfied by PDC at or prior to closing. All rents or income applicable to the Property shall be prorated as of the Closing Date. Buyer shall pay property taxes on the Property beginning on the day following the Closing.

5.7.3. Utilities. PDC shall cause all meters for electricity, if any, at the Property to be read on the Closing Date, and PDC shall pay all charges for such utility charges that 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 therefor.

5.7.4. 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 Buyer 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 only the annual payments due through the Closing Date for the Property's pro rata share of any special assessments that have been paid in annual installments. Buyer shall assume liability for payment of any annual payments due after the Closing Date for any special assessments that have been paid in annual installments. Buyer and the PDC shall each pay their own legal and professional fees of other consultants incurred by Buyer and PDC, respectively.

6. ENVIRONMENTAL CONDITION OF THE PROPERTY AND PARTIES' RESPONSIBILITIES

6.1. Environmental Due Diligence Reports. Buyer acknowledges receipt of copies of the Environmental Due Diligence Reports, as set forth in Exhibit F, other than the Phase I Environmental Site Assessment described in Section 6.2 below.

6.2. Phase I Environmental Site Assessment. During the Due Diligence Period, Buyer may cause completion of a Phase I Environmental Site Assessment of the Property in conformance with the ASTM E 1527-05 process in compliance with the United States Environmental Protection Agency "All Appropriate Inquiries" (40 CFR Part 312). Buyer shall provide a copy of the Phase I Environmental Site Assessment to PDC, promptly after Buyer's receipt thereof. If deemed desirable or necessary by Buyer, Buyer may cause completion of a Phase II environmental site assessment as part of Buyer investigations of the Property during the Due Diligence Period, provided that Buyer or its contractor has submitted to PDC a description of the scope of the Phase II and obtained PDC's consent thereto.

6.3. Indemnification. Buyer shall be responsible for compliance with all Environmental Laws applicable to the Property, Buyer's business and the operation of the Project from and after Closing, including but not limited to compliance with all restrictions, limitations, conditions and obligations imposed by the Oregon Department of Environmental Quality ("DEQ") pursuant to a no further action letter, underground storage tank closure letter or easement and equitable servitude applicable to the Property, if any. Buyer shall defend (at PDC's request), indemnify and hold harmless PDC, its successors and assigns, from and against all claims, costs, expenses, losses, damages, and liabilities, including, without limitation, reasonable legal, accounting, consulting, engineering and other expenses which may be imposed on or incurred by PDC, its successors or assigns, or asserted against PDC, its successors or assigns, by any other person or entity, including, without limitation, a governmental entity, arising out of or in connection with any Environmental Conditions resulting from the acts or omissions of Buyer from and after the Closing Date. The indemnity set forth in this Section 6.3 shall survive the Closing Date.

6.4. Contribution. The foregoing indemnity does not limit any rights of contribution that the Parties may have against others under applicable law or agreement. The indemnity is intended only as an allocation of responsibility between the Parties.

6.5. Reimbursement of Incremental Costs. Although testing has not been completed, the parties anticipates that the Property is contaminated with elevated levels of arsenic and lead. PDC will reimburse Buyer for all incremental costs associated with the environmental conditions of the Property, subject to the below stated provisions:

6.5.1. "Incremental costs" shall include all costs that would not otherwise be incurred but for the environmental condition of the Property. For purposes of defining "incremental costs," PDC will reimburse for actual invoiced costs for: soil off-haul and disposal (less normal costs of same); environmental testing of materials (including soil and groundwater); environmentally required materials and equipment such as demarcation fabric; Phase II or higher environmental survey(s); worker training; other environmental costs that would otherwise not be part of normal construction such as washing or changing facilities. Incremental costs will not include: clothing or cleaning of worker clothing; labor inefficiencies; construction staging materials (e.g. rocking all or a portion of the Property, whether serving as an environmental cap or not); management of soils piles; dust control; track-out control; and general overhead.

6.5.2. Buyer shall remove the minimum amount of excavated materials from the Property, and no unnecessary excavation for development will be allowed. All improvements (except for utilities and foundations or pilings or the like) on the Property must be built above current grade and adjacent street level, unless Buyer agrees to pay any and all additional costs of off-site soils disposal at a qualified landfill or other DEQ approved site. PDC may approve variations to this requirement to the extent that alternative designs are approved by the City of

Portland Design Review Commission or by other government agencies having jurisdiction over the Property.

- 6.5.3.** Subsurface parking, below-grade basements, and similar underground structures will not be permitted, unless Buyer agrees to pay any and all additional costs of off-site soils disposal at a qualified landfill or other DEQ-approved site caused by the construction of the improvements described in this subparagraph.
- 6.5.4.** Buyer agrees to cooperate fully with PDC, DEQ, OSHA and others regarding all environmental issues. Buyer will agree to the terms of a deed restriction on the property, addressing maintenance of the cap, land use changes, and other necessary engineering or institutional controls, as such controls are required as part of any remedial action plan. Buyer will be fully responsible for inspection and maintenance of any required cap of soils following completion of the Proposed Development.
- 6.5.5.** Buyer and its contractors and subcontractors may be required to adhere to a series of worker protocols relating to health and safety practices. A sample of those protocols will be provided by PDC to Buyer with the Due Diligence Materials. Buyer and its contractors and subcontractors can use these protocols at their discretion, or may develop their own based on their assessment of the environmental condition of the Property.

7. ASSIGNMENT AND TRANSFER PROVISIONS

- 7.1. Restrictions on Transfer of the Property and Assignment of the Agreement.** Except as provided in this Section 7.1. and as provided in Section 7.2, Buyer shall not partially or wholly transfer Buyer's interest in this Agreement without the prior written approval of the PDC, which may be withheld in PDC's reasonable discretion.
- 7.2. Approved Transfers.** Notwithstanding Section 7.1 above, and provided that Buyer provides PDC with copies of all agreements related to the transfer, PDC hereby consents to:
 - 7.2.1.** An assignment of Buyer'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, limited partnership or corporation ultimately controlled by Homer G. Williams, T. B. Dame, or both through ownership or management rights.
 - 7.2.2.** Any Mortgage, including any assignment of rights under this Agreement to any Mortgagee, as reasonably approved by PDC.

8. COMPLIANCE WITH PDC POLICIES

8.1. Business and Workforce Equity Policy. PDC has adopted the Business and Workforce Equity Policy to ensure fair and equitable opportunities to Portland’s diverse populations, promote prosperity in all segments of Portland’s diverse communities, foster economic growth, and expand competition in the market. The Business and Workforce Equity Policy is set forth in Exhibit E. The Business and Workforce Equity Policy is comprised of two (2) separate and distinct programs:

- The Business Equity Program; and
- The Workforce Equity Program

Within ten (10) days of the Effective Date, Buyer shall contact the PDC Contracts Coordinator to obtain the Business Equity Program Specifications (the “Specifications”) that outline the procedural requirements of the respective programs, including the reporting requirements to the City. The development of any building on the Property (the “Project”) is subject to the Business Equity Program and the Workforce Equity Program.

8.1.1. Business Equity Program. The purpose of the Business Equity Program is to ensure that PDC provides professional, supplier and construction contracting opportunities to State certified minority-owned, women-owned and emerging small businesses (collectively, “Certified Firms”) and to encourage the participation of businesses owned by veterans in connection with PDC projects. The utilization goal for Certified Firms in connection with the Project is twenty percent (20%) of the Project’s hard construction costs. The Buyer shall comply with the Business Equity Program by including provisions in its contract with its general contractor that require the general contractor to comply with the Specifications of the Business Equity Program and otherwise causing its general contractor, and the subcontractors thereof, to comply with the Specifications in connection with the Project. Buyer shall also comply with all portions of the Business Equity Program applicable directly to Buyer. The failure of Buyer or Buyer’s general contractor, or the subcontractors thereof, to comply with the Specifications within the applicable notice and cure periods shall constitute a breach of a material provision of this Agreement. Provided that the Specifications are followed, failure to meet the specific utilization goal for Certified Firms shall not constitute a breach of a material provision of this Agreement.

8.1.2. Workforce Equity Program. Buyer will comply with PDC’s Workforce Equity Program (under the program guidelines a general conditions in effect as of the Effective Date).

8.2. Green Building Standards. Buyer shall use commercially reasonable efforts to obtain at least LEED Silver certification for the Project.

8.3. EEO Certification. Buyer 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. Buyer shall also comply with all portions of the EEO Certification Program applicable directly to Buyer 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 Buyer or Buyer'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.

9. POST CLOSING COVENANTS.

- 9.1.** Buyer covenants that it will commence construction of the Proposed Development on or before the date that is twenty-four (24) months after Closing (the "Construction Commencement Deadline"). Buyer, or its successors, may not use the Property for a use other than the Proposed Development without PDC's prior written consent. While PDC agrees in good faith to consider a proposed use other than the Proposed Development, PDC may in its sole, good faith, discretion approve or deny a request for an alternative use or project. As used in this Agreement, "commence construction," shall mean the date on which Buyer has begun, or has caused a contractor to begin, driving pile on the Property according to Construction Plans for a design consistent with the Proposed Development.
- 9.2.** Upon request from PDC, before or after Closing, Buyer shall provide PDC with status reports concerning the progress of the Proposed Development, including, but not limited to, information concerning the design, financing and pre-leasing of the Proposed Development.
- 9.3.** In consideration of PDC's agreements herein, Buyer, at or after Closing, shall assign or transfer to PDC any and all parking entitlements associated with and attached to the Property and not used by Buyer, if any. Buyer shall execute any and all commercially reasonable documents to memorialize such a transfer or assignment.

10. CONTINUING COVENANTS SURVIVING TERMINATION OF AGREEMENT OR COMPLETION OF CONSTRUCTION

The following Sections of this Agreement shall survive and remain in effect for the periods identified herein: Section 2.5 (AS IS); Section 3 (REPRESENTATIONS); Section 6.3 (INDEMNIFICATION); Section 8 (COMPLIANCE WITH PDC POLICIES); Section 9 (DEVELOPMENT); Section 11 (MORTGAGEE PROTECTION PROVISIONS); Section 12 (DEFAULT AND REMEDIES); and Section 15 (EASEMENTS).

11. MORTGAGEE PROTECTION PROVISIONS

- 11.1. Effect of Revesting on Mortgages.** Any right to repurchase the Property in PDC pursuant to this Agreement shall always be subordinate to, subject to and limited by, and shall not defeat, render invalid, or limit in any way, except as expressly set forth herein, any Mortgage. Notwithstanding the above, if PDC exercises its right to

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Agreement for Purchase and Sale of Property – Lot 5 of Station Place

repurchase the Property, PDC shall have the right to satisfy any Mortgagee debt secured by the Property, and apply such payment as a credit against the Repurchase Price.

11.2. Mortgagee Not Obligated To Construct. Notwithstanding any of the provisions of the Agreement and provided that if and when the Property is developed a taxable project is built on the Property, none of a Mortgagee, its designee for purposes of acquiring title at foreclosure, a purchaser at a foreclosure sale, or a party who purchases from a Mortgagee shall in any way be obligated by the provisions of this Agreement to construct or complete the Proposed Development or to guarantee such construction or completion.

11.3. Copy of Notice of Default to Mortgagee. If PDC delivers a notice or demand to Buyer with respect to Buyer'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.

11.4. Mortgagee's Options to Cure Defaults. After Buyer's default of this Agreement and if Buyer 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 Buyer's cure or remedy of the default or longer if the default cannot reasonably be cured within such 30-day period and Mortgagee is diligently pursuing such cure or remedy, 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, 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 Proposed Development, 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 Proposed Development.

11.5. 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 Buyer secured by a security interest in all or any part of the Property or the Proposed Development, provided that such proposed amendments or other agreements do not materially and adversely affect the rights of PDC or its interest in the Property.

12. DEFAULT AND REMEDIES

12.1. Default and Cure.

12.1.1. Default by Buyer.

- (a) Buyer shall be in default under this Agreement if Buyer breaches a material provision of this Agreement, whether by action or inaction, and

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such breach continues and is not remedied within thirty (30) days after Buyer 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, Buyer shall be in default under this Agreement if Buyer does not commence the cure of the breach within thirty (30) days after Buyer receives written notice from PDC and thereafter diligently prosecute to completion such cure within one hundred twenty (120) days unless such cure requires additional time as is reasonably necessary.

- (b) Buyer shall also be in default under this Agreement if Buyer 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.

12.1.2. 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 Buyer 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 Buyer and thereafter diligently prosecute to completion cure within one hundred twenty (120) days unless such cure requires additional time as is reasonably necessary.

12.2. PDC's Remedies. In the event of a Buyer default under this Agreement that is not timely cured, PDC, as its sole and exclusive remedy, may terminate this Agreement by written notice to Buyer and retain the Escrow Deposit. **BUYER AND PDC HEREBY ACKNOWLEDGE AND AGREE THAT PDC'S DAMAGES IN THE EVENT OF SUCH A BREACH OF THIS AGREEMENT BY BUYER WOULD BE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT THE AMOUNT OF THE ESCROW DEPOSIT PLUS ACCRUED INTEREST IS THE PARTIES' BEST AND MOST ACCURATE ESTIMATE OF THE DAMAGES PDC WOULD SUFFER IN THE EVENT THE TRANSACTION PROVIDED FOR IN THIS AGREEMENT FAILS TO CLOSE, AND THAT SUCH ESTIMATE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT.**

12.3. PDC's Post Conveyance Remedies.

12.3.1. If Buyer fails to timely commence construction on or before the Construction Commencement Deadline, then PDC shall have the right to repurchase the Property (the "Repurchase Right") for the Repurchase Price (defined below). The Repurchase Right shall be exercised by, first, delivery of written notice to Buyer of written notice of PDC's intent to exercise the Repurchase Right, which written notice is received by Buyer by the date that is ten (10) Business Days after the later of i) the Construction Commencement Deadline or ii) Buyer's written notice to PDC (delivered by Certified Mail) that the Construction Commencement

Deadline has expired or will, within 30 days, expire and requesting written confirmation within 10 Business Days of PDC's intent to exercise the Repurchase Right. After timely delivery of such written notice, PDC shall have one hundred eighty (180) days thereafter to obtain budget and Board approvals to repurchase the Property. The Repurchase Right shall automatically terminate and be of no further force and effect on the earliest of: (a) the date that Buyer commences construction; (b) the date PDC's written notice of PDC's intent to exercise its Repurchase Right expires, , if PDC does not timely deliver notice of its exercise of the Repurchase Right; and (c) the one hundred eighty-first (181st) day after PDC has delivered it written notice of its intent to exercise the Repurchase Right, if PDC timely delivers notice of its exercise of the Repurchase Right but does not timely obtain budget and Board approvals to repurchase the Property.

12.3.2. As used in this Agreement, "Repurchase Price" means the Purchase Price, together with the costs incurred by Buyer for any work product that Buyer is willing and able to sell or assign and PDC desires to acquire.

12.3.3. This repurchase right shall be memorialized by a Memorandum recorded at Closing. If Buyer commences construction of a project other than the Proposed Development without PDC's consent as required by this Agreement, PDC does not have an adequate remedy at law for a breach of this requirement, since Buyer's declared intent to build the Proposed Development is a material inducement for PDC's agreement to sell the Property. In the event of a breach or express threatened breach of this requirement, it is agreed that PDC may obtain a temporary restraining order and/or injunction, prohibiting an alternative use.

12.4. 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. Notwithstanding any other provisions of this Agreement, in no event shall either Party seek incidental, indirect, consequential or punitive damages from the breaching party in connection with the breaching party's default in excess of \$5,000,000.

12.5. Buyer's Post-Conveyance Remedies. If a PDC default (as described in Section 12.1.2) occurs after PDC conveys the Property to Buyer, Buyer may specifically enforce the obligations of PDC under this Agreement, or seek monetary damages against PDC.

13. CASUALTY AND CONDEMNATION

Buyer shall be bound to purchase the Property for the Purchase Price as required by the terms of this Agreement without regard to the occurrence or effect of any damage to or destruction of all or any portion of the Property or condemnation (or threat or intent to condemn) by right of eminent domain, provided that the occurrence of any damage, destruction or condemnation is not material. In the event of any material damage, destruction or condemnation or receipt of notice of intent to condemn all or any portion of the Property prior to Closing, Buyer may, within ten (10) Business Days after Buyer receives notice of such damage, destruction or taking, or prior to Closing, whichever occurs first, terminate this Agreement, in which event the Escrow Deposit, and all interest earned thereon, shall be immediately returned by Buyer. If Buyer waives in writing any such damage, destruction or condemnation, and elects to proceed to Closing, at Closing and as a condition precedent thereto, PDC shall pay to Buyer or apply against the Purchase Price the amount of PDC insurance deductible and the amount of any insurance or condemnation proceeds attributable thereto which have been received by or are available to PDC, and assign to Buyer as of the Closing all rights or claims to such proceeds payable thereafter. PDC shall cooperate with Buyer post-Closing in the collection of such proceeds. For purposes of this Section 13, damage, destruction or condemnation shall be deemed material if it (a) would result in the permanent loss or use of three percent (3%) or more of the square footage of the Land; or (b) involves any repair, restoration or remediation costs in excess of One Hundred Thousand and No/100 Dollars (\$100,000.00); or (c) in the case of condemnation, imposes any restriction or condition that materially impairs or causes an impediment to Buyer's development of the Property, as determined by Buyer in its sole and absolute discretion.

14. ENTITLEMENTS

So long as this Agreement remains in effect, and subject to the provisions of this Section 14, Buyer, at its expense, may pursue and work to obtain all necessary approvals for developing the Property in such manner as Buyer shall deem appropriate in Buyer's sole discretion. PDC agrees that Buyer shall have the right during such time to: (a) enter into discussions and negotiations regarding the development of the Property with all governmental authorities having jurisdiction over the Property; and (b) apply for, prosecute, participate in and/or cause to be issued and finally approved any plat, permit, rezoning, change in comprehensive plan, designation, variance or conditional use request, binding site plan, local improvement district or other approval which may be required as part of Buyer's planned development of the Property; *provided, however*, that such approvals shall (i) not be binding on or effective as to the Property until the Closing Date, or (ii) be capable of being withdrawn if Closing does not occur. PDC, at no cost, expense or liability (actual or contingent) to PDC, shall reasonably cooperate with Buyer in all respects in connection with obtaining governmental approvals, which cooperation may include the execution and delivery of any applications, agreements, approvals, licenses, plans, permits and other instruments and assurances as may be required by Buyer.

15. EASEMENTS

PDC, at no charge to Buyer, agrees to (a) grant to Buyer or its successors or assigns a commercially reasonable crane swing easement over and above adjacent or neighboring property owned by PDC as necessary for the construction of the Proposed Development and

(b) cooperate with Buyer to obtain the same from the City, if and as necessary, over City owned property or rights-of-way.

16. MISCELLANEOUS PROVISIONS

16.1. Notice. Any notice or communication under this Agreement by either Party to the other shall be deemed given and delivered on the earlier of actual delivery or refusal to accept delivery thereof if sent by one of the following means with all applicable delivery and postage charges prepaid: (a) registered or certified U.S. mail, postage prepaid, return receipt requested; (b) personal delivery; (c) nationally recognized overnight courier service (e.g. Federal Express); or (d) if simultaneously delivered by another means allowed hereunder, e-mail, with receipt of confirmation that such transmission has been received.

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

Williams/Dame & Associates, Inc.
Attn: Dike Dame
1308 NW Everett Street
Portland, OR 97209
Email: dike@wddcorp.com

With a copy to:

Radler White Parks & Alexander LLP
Attn: Dina Alexander
111 SW Columbia, Suite 1100
Portland, OR 97201
Email: dalexander@radlerwhite.com

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

Portland Development Commission
Attn: Real Estate Services Coordinator
222 NW 5th Ave.
Portland, OR 97209
Email: woodb@pdc.us

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. Notices may be give by counsel to a Party.

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

16.2. Merger. Intentionally Omitted.

16.3. 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.

16.4. 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.

16.5. 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 Buyer 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.

16.6. 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 or non-defaulting party shall be entitled to recover from the losing or defaulting 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 U.S. Bankruptcy Court, including those related to issues unique to bankruptcy law.

16.7. 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.

16.8. 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.

16.9. 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.

16.10. 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.

16.11. 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.

16.12. Amendments and Modifications. Any modifications to this Agreement must be made in writing and executed by all Parties, with the approval of the Board, if required. Notwithstanding this general requirement, the PDC Executive Director may approve modifications to this Agreement without Board approval so long as no period of time is extended by more than one hundred eighty (180) days and PDC's economic obligations are not materially increased. Any modifications to this Agreement made without the approval of the Board must include an acknowledgement by PDC's General Counsel that such approval is not necessary.

16.13. Successors and Assigns. Subject to the provisions of Section 7, 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.

16.14. 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.

16.15. Non-waiver of Government Rights. Subject to the terms and conditions of this Agreement, by making this Agreement and delivery of the Deed, 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.

16.16. 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.

16.17. Time of Essence. Time is of the essence of this Agreement. However, if either Party fails to fulfill an obligation under this Agreement, such Party shall not be deemed to be in default until notice of such failure has been given in accordance with Section 12.1 and the applicable cure period has passed without cure of the failure.

16.18.No Third-Party Beneficiary Rights. No person other than a Party is an intended beneficiary of this Agreement, and no person other than a Party shall have any right to enforce any term of this Agreement.

16.19.Incorporation. The exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

16.20.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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

(Remainder of page intentionally left blank; signatures appear on the following page)

Executed in multiple counterparts as of the Effective Date.

PDC:

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: _____
Patrick Quinton, Executive Director

APPROVED AS TO FORM:

Eric Iverson, General Counsel

BUYER:

WILLIAMS/DAME & ASSOCIATES, INC.,
an Oregon corporation

By: _____
T.B. Dame, President

EXHIBITS

| | |
|-------------------|--------------------------------------|
| Exhibit A. | Definitions |
| Exhibit B. | Legal Description of the Property |
| Exhibit C. | Permit of Entry |
| Exhibit D. | Form of Deed |
| Exhibit E. | Business and Workforce Equity Policy |
| Exhibit F. | Environmental Due Diligence Reports |

EXHIBIT A

DEFINITIONS

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

1. **“Agreement”** has the meaning set forth in the caption of this Agreement.
2. **“Board”** means the PDC Board of Commissioners.
3. **“Business Days”** means any weekday that is not a Saturday, Sunday or legal holiday in the State of Oregon.
4. **“Buyer”** has the meaning set forth in the introductory paragraph of this Agreement.
5. **“City”** means the municipal corporation of the City of Portland, Oregon and its constituent bureaus and agencies, except PDC.
6. **“Closing”** means the transfer of the Property to Buyer by PDC by recording of the Deed and handling of all other necessary documentation by the Escrow Agent.
7. **“Closing Date”** has the meaning set forth in Section 5.2.1.
8. **“Construction Commencement Deadline”** has the meaning set forth in Section 9.1.
9. **“Deed”** has the meaning set forth in Section 5.4.
10. **“DEQ”** has the meaning set forth in Section 6.3.
11. **“Due Diligence Materials”** has the meaning set forth in Section 2.6.2.
12. **“Due Diligence Period”** has the meaning set forth in Section 2.6.3.
13. **“Effective Date”** has the meaning set forth in the introductory paragraph of this Agreement.
14. **“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.
15. **“Environmental Due Diligence Reports”** means reports of investigations performed as part of environmental due diligence, which may include Phase 1, Phase 2 and Hazardous Building Site Assessments and reports that PDC has completed or PDC has in its possession, completed by others.
16. **“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.

17. **“Escrow Agent”** has the meaning set forth in Section 5.7.1.

18. **“Escrow Deposit”** has the meaning set forth in Section 2.3.

19. **“Escrow Instructions”** has the meaning set forth in Section 5.1.2.

20. **“Final Permitted Exceptions”** has the meaning set forth in Section 2.7.2.

21. **“Incremental Costs”** has the meaning set forth in Section 6.5.1.

22. **“Land”** has the meaning set forth in Section 2.2.

23. **“Laws”** has the meaning set forth in Section 3.1.6.

24. **“LID”** has the meaning set forth in Section 2.7.3.

25. **“Monetary Liens”** has the meaning set forth in Section 2.7.3.

26. **“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.

27. **“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.

28. **“OSHA”** means the United States Occupational Health and Safety Administration.

29. **“Parking Agreement”** has the meaning set forth in Section 4.1.2.

30. **“Party”** and **“Parties”** have the meanings set forth in the introductory paragraph of this Agreement.

31. **“PDC”** has the meaning set forth in the introductory paragraph of this Agreement.

32. **“PDC’s knowledge”** means the actual current knowledge of Eric Iverson, Colin Polk and Steve Blank, without any duty of inquiry or investigation.

33. **“Permit of Entry”** has the meaning set forth in Section 2.6.1.

34. **“Permitted Exceptions”** has the meaning set forth in Section 2.7.1.

35. **“Proposed Development”** has the meaning set forth in Recital D.
36. **“Purchase Price”** has the meaning set forth Section 2.4.
37. **“Repurchase Price”** has the meaning set forth in Section 12.3.2.
38. **“Repurchase Right”** has the meaning set forth in Section 12.3.1.
39. **“Seller Response Period”** has the meaning set forth in Section 2.7.1.
40. **“Seller’s Secondary Response Period”** has the meaning set forth in Section 2.7.2.
41. **“Title Report”** has the meaning set forth in Section 2.6.2.
42. **“URA”** means the River District Urban Renewal Area.

EXHIBIT B

DESCRIPTION OF PROPERTY

Lot 5, STATION PLACE, said plat recorded March 6, 2003 in Plat Book 1257, Pages 84-86 and as Fee No. 2003-051418, Deed Records, in the City of Portland, County of Multnomah and State of Oregon.

EXHIBIT C – TO BE PROVIDED

EXHIBIT D

FORM OF 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 (together with any successor public agency designated by or pursuant to law, "PDC"), conveys to _____ **LLC**, an Oregon limited liability company ("Buyer"), the following described real property (hereinafter the "Property"):

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

The conveyance is made pursuant to that certain Agreement for Purchase and Sale of Property between Buyer and PDC, dated _____, 2014 (the "Agreement"). The true and actual consideration for this conveyance is Five Million Five Hundred Thousand and No/100 Dollars (\$5,500,000.00).

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 River District Urban Renewal Area approved by the City Council of the City on June 18, 1998, as amended.

It is intended that the delivery of this Deed shall not effect a merger of those provisions of the Agreement that under the terms of the Agreement expressly survive 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, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

(Remainder of page intentionally left blank; signatures appear on the following page)

Dated this ____ day of _____, 2014.

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: _____
Printed Name: _____
Its: _____

STATE OF OREGON)

) ss.

County of Multnomah)

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

Notary Public for Oregon
My commission expires: _____

Exhibit E

PDC Business and Workforce Equity Policy

Exhibit F

Environmental Due Diligence Reports