

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 6998

**AUTHORIZING A PREDEVELOPMENT LOAN WITH CENTENNIAL MILLS
PORTLAND, LLC IN AN AMOUNT NOT TO EXCEED \$350,000 FOR DUE
DILIGENCE AND SCHEMATIC DESIGN FOR CENTENNIAL MILLS IN THE
RIVER DISTRICT URBAN RENEWAL AREA**

WHEREAS, the Portland Development Commission (“PDC”) is undertaking the River District Urban Renewal Plan, adopted September 25, 1998 (the “Plan”), including acquiring and redeveloping properties for public improvements and providing the district access to the Willamette River;

WHEREAS, in 2000, PDC acquired the 4.7 acre Centennial Mills site (the “Property”) pursuant to recommendations of the Plan with the intent to redevelop the Property as part of an open space system for the River District Urban Renewal Area;

WHEREAS, in May 2005, the Portland City Council adopted Resolution No. 36320, recognizing that the Property stands “as a symbol of Portland’s rich history of maritime commerce and [as] a valuable artifact of the industrial working waterfront,” and directing PDC and the Bureau of Planning to work with interested stakeholders to develop a comprehensive plan for the Property;

WHEREAS, on October 11, 2006, the Portland City Council adopted the Centennial Mills Framework Plan (the “Framework Plan”), developed by PDC together with the Bureau of Planning over a six-month public process, to reflect stakeholders’ key priorities for redevelopment of the Property;

WHEREAS, in October 2012, an evaluation committee and the Executive Director selected Harsch Investment Properties, LLC (“Harsch”) to develop the Property consistent with the goals of the Framework Plan and the Portland Economic Development Strategy (the “Project”);

WHEREAS, in March 2013, PDC and Harsch entered into a Memorandum of Understanding setting forth the understandings and intentions of the parties for negotiating a Disposition and Development Agreement to implement the Project;

WHEREAS, on March 19, 2013, the Finance Investment Committee recommended to the Executive Director approval of a \$350,000 predevelopment loan (the “Loan”) to Harsch to assist with the completion of Property-related due diligence work and schematic designs in connection with the Project;

WHEREAS, PDC’s Commercial Property Redevelopment Loan Guidelines provide that any predevelopment loan above \$200,000 for requires Board authorization; and

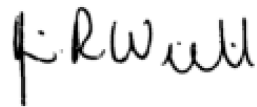
WHEREAS, while Harsch has established a limited liability company, Centennial Mills Portland, LLC for purposes of the Project, Harsch will remain liable for the Loan.

NOW, THEREFORE, BE IT RESOLVED that the Executive Director is authorized to execute the Predevelopment Loan Agreement, substantially in the form attached hereto as Exhibit A (the "Agreement") and any related loan documents, in an amount not to exceed \$350,000 for the completion of schematic design and due diligence work for the Property and the Project ; and

BE IT FURTHER RESOLVED, that the Executive Director may approve changes to the Agreement and any related loan documents so long as 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 30 days after its adoption.

Adopted by Portland Development Commission on April 9, 2013



Gina Wiedrick, Recording Secretary

PORTLAND DEVELOPMENT COMMISSION

Portland, Oregon

RESOLUTION NO. 6998

EXHIBIT A

AUTHORIZING A PREDEVELOPMENT LOAN WITH CENTENNIAL MILLS PORTLAND, LLC IN AN AMOUNT NOT TO EXCEED \$350,000 FOR DUE DILIGENCE AND SCHEMATIC DESIGN FOR CENTENNIAL MILLS IN THE RIVER DISTRICT URBAN RENEWAL AREA

Exhibit A includes this cover page and contains 15 pages:

- Predevelopment Loan Agreement
 - Exhibit A – Scope of Predevelopment Activities
 - Exhibit B – Disbursement Request Form

Loan No. _____

PREDEVELOPMENT LOAN AGREEMENT

THIS PREDEVELOPMENT LOAN AGREEMENT (this “Agreement”) is made this ____ day of April, 2013 (the “Effective Date”) by and between **CENTENNIAL MILLS PORTLAND, LLC**, an Oregon limited liability company (“Borrower”) and the **CITY OF PORTLAND**, a municipal corporation of the State of Oregon, acting by and through the **PORTLAND DEVELOPMENT COMMISSION** (“Lender”).

RECITALS

A. Borrower desires to conduct certain Predevelopment Activities (as hereinafter defined) to determine whether its proposed project to redevelop the Centennial Mills site located at 1362 NW Front Avenue, Portland Oregon (the “Project”) is feasible. Predevelopment Activities shall consist of due diligence and schematic design drawings.

B. Borrower desires to borrow from Lender, on the terms and conditions of this Agreement, the Loan (as hereinafter defined) to finance the Predevelopment Activities pertaining to the Project to determine its feasibility.

C. Lender has agreed to loan an amount not to exceed \$350,000.00 (the “Loan”) to be used by Borrower to finance a portion of the Predevelopment Activities for the Project, on the terms and conditions of this Agreement.

D. Depending on the outcome of the Predevelopment Activities related to the Project, Borrower may apply to Lender and Lender may approve a loan to Borrower to finance, either in whole or in part, construction of the Project (the “Construction Loan”).

E. If Borrower proceeds with the Project, the Loan shall be paid off from the proceeds of the Construction Loan, if any, or the proceeds of construction or other financing for the Project. If Borrower does not proceed with the Project, the Loan shall be repaid as otherwise provided in this Agreement. Both Borrower and Lender, by mutual consent, shall agree regarding determination of the Project’s infeasibility, based on the following criteria: i) inability to attract equity investment, ii) failure to attract acceptable tenants to the Project, iii) excessive development costs and/or insufficient operating income, iv) loss of Borrower’s financial capability, and v) inability to secure Project financing.

F. The Borrower is under no obligation to apply for, and Lender is under no obligation to make, the Construction Loan or any other loan related to the Project. This transaction does not constitute an application by the Borrower or a commitment by Lender for any activities or financing in relation to the Project other than the commitment to provide the Loan in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual and dependent covenants hereinafter contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. THE PREDEVELOPMENT LOAN

1.1 Amount and Disbursement.

On the terms and subject to the condition of this Agreement, Lender agrees to provide the Loan to Borrower in accordance with the Loan Documents to finance, in part, activities/items listed on **Exhibit A**, which items may be amended from time to time with approval from Lender (collectively, the Predevelopment Activities”). Loan proceeds shall be disbursed from time to time to Borrower on an expense reimbursement basis as described in Section 1.4. If the first disbursement does not occur by October ____, 2013, because Borrower has not yet satisfied conditions precedent to disbursement or has not requested a disbursement, Lender may, at its sole discretion, terminate this Agreement effective upon written notice to Borrower. If the Agreement is terminated, Lender shall have no further obligations hereunder.

1.2 **Note.** The Loan shall be evidenced by, and repayable in accordance with, a Predevelopment Promissory Note of Borrower (the “Note”) payable to Lender or its designee on the dates and in the manner set forth in the Note (this Agreement, the Note, the Guaranty (as hereinafter defined) and all other agreements, instruments, and documents executed and delivered in connection with the Loan, collectively, the “Loan Documents”).

1.3 **Purpose of the Loan and Use of Proceeds.** The purpose of the Loan is to provide Borrower with financing, in part, for planning, architecture and landscape design, as shown on Exhibit A attached hereto. Borrower represents that it shall use the proceeds of the Loan solely for this purpose.

1.4 **Requests for Disbursements.** Disbursements shall be made pursuant to Borrower’s written request the form of which is attached hereto as **Exhibit B** (“Request for Disbursement”), received by Lender at least ten (10) business days prior to the date on which such disbursement is requested. Each Request for Disbursement shall specify the expenses for which reimbursement is sought and the amount and shall be accompanied by supporting documents, each of which shall be in form and substance satisfactory to Lender, and which shall be signed by an officer or authorized agent of Borrower. Prior to disbursement of any of Lender’s funds Lender shall review and approve the scope of the Predevelopment Activities, as may be amended from time to time, and Borrower shall cause its contractors and/or subcontractors to execute Lender’s Consent to Assignment of Contracts and Work Product form. Reimbursements shall be made for work or services provided and shall be reimbursed on a fifty-fifty split between Borrower and Lender. No disbursements shall be made later than one month prior to the maturity date stated in the Note.

1.5 Contractors and Consultants. Borrower shall use reasonable efforts to identify and utilize qualified contractors and professional consultants in a manner consistent with the process and the spirit of the Commission's policies regarding minority-owned businesses, women-owned businesses and emerging small businesses.

1.6 Quality Work. In undertaking the predevelopment work, Borrower shall use reasonable efforts to identify and utilize qualified contractors and professional consultants in a manner which results in high quality work product and analysis at the most reasonable cost, and Borrower further agrees to provide Lender with evidence of these efforts upon request.

1.7 Forgiveness of Loan.

(a) If Borrower and Lender determine, prior to the final disbursement of Loan proceeds hereunder or within 30 days thereafter, that the Project is not financially feasible, Borrower shall cease all predevelopment work, inform Lender of Borrower's decision in writing and promptly deliver to Lender all documents, files, working papers, and reports, in any form, arising from the Predevelopment Activities, all Work Product (as defined in Section 2.2), and originals of all Predevelopment Contracts (as defined in Section 2.2) (except for any documents or Work Product that would be protected by the attorney-client privilege.). Failure to make this determination timely shall be a breach of this Agreement. Notwithstanding anything to the contrary herein or in the Loan Documents, whether the Loan is forgiven or not, in either circumstance Lender shall be entitled to retain or receive any and all Work Product and documents arising from the Predevelopment Activities associated with the Project.

(b) If (i) Borrower notifies Lender as provided in Section 1.7(a) of Borrower's determination that the Project is not financially feasible, (ii) Lender approves Borrower's determination, and (iii) no Event of Default or event that with the giving of notice or lapse of time or both would constitute an Event of Default has occurred, then Lender and Borrower shall negotiate new repayment terms for the Loan. Such terms may, but will not necessarily, include repayment of the Loan through the sale of Borrower's property or from other sources, a longer repayment term, or partial or complete forgiveness of the Loan. Lender's and Borrower's agreement on new repayment terms must be evidenced and implemented through documentation in form and substance satisfactory to Lender and Borrower. Forgiveness of any portion of the Loan should not be assumed and is not automatically granted by Lender. Loan forgiveness shall be at Lender's sole discretion and is based on the following criteria: i) Borrower's inability to attract equity investment, ii) failure to attract acceptable tenants to the Project, iii) excessive development costs and/or insufficient operating income, iv) loss of Borrower's financial capability, and v) inability to secure Project financing. Forgiveness may include all or any part of the outstanding indebtedness, including principal, but not including any processing fees which have already been paid or Loan proceeds that have not been expended. Any forgiveness will be conditioned on, among other things, delivery to Lender of the documents described in Section 1.7(a). If Lender and Borrower fail to reach agreement on new Loan repayment terms within three months of Borrower's notice to Lender under Section 1.7(a), then the Loan shall, if it is not already due and payable under the terms of the Note, become immediately due and payable.

1.8 **Further Assurances.** At any time, upon Lender's request, Borrower shall, at its own expense, do any act and execute and deliver any document as may be reasonably requested by Lender in connection with any sale, assignment or transfer of this Agreement and/or any other documents normally required for similar loans by prudent lenders in accordance with reasonable commercial standards.

2. SECURITY INTEREST AND ASSIGNMENT

2.1 **Security for Predevelopment Loan.** Prior to the first disbursement of Loan proceeds and to secure Borrower's payment and performance of its obligations under this Agreement and the other Loan Documents, Borrower shall execute and deliver to Lender an Assignment of Contracts and Work Product in form and substance acceptable to Lender (the "Assignment"), to assign to Lender the Predevelopment Contracts (as hereinafter defined) and Work Product (as hereinafter defined). The assignment under the Assignment shall be effective immediately upon Borrower's execution thereof, but shall be subject to a license to Borrower, which license shall terminate on the earlier of an Event of Default or, if the Loan is forgiven in whole or in part under Section 1.7(b), the date of that forgiveness.

2.2 **Grant of Security Interest.** Borrower hereby grants to Lender a security interest in Borrower's right, title, interest, privilege, benefit and remedies in, to and under all contracts or agreements now or hereafter entered into by Borrower with any architect, contractor, engineer, or other consultant for the purpose of design, engineering, construction or development of the Project (including but not limited to the contracts identified in the Assignment) (collectively, the "Predevelopment Contracts") and in all work product (in any form including but not limited to electronic and hard media form) produced under or as a result of, or arising from, the Predevelopment Contracts (collectively, the "Work Product"), and the products and proceeds thereof, to secure payment and performance of Borrower's obligations under this Agreement and the other Loan Documents. Borrower hereby authorizes Lender to file or record other documents as Lender considers reasonably necessary to perfect the foregoing security interest.

3. CONDITIONS OF LENDER'S OBLIGATIONS

3.1 **Conditions Precedent to Disbursements.** Lender's obligation to disburse Loan proceeds under this Agreement is subject to satisfaction of the following conditions:

(a) Borrower shall have executed and delivered to Lender the Note, the security documents contemplated by Section 2, and all other agreements, documents and instruments reasonably requested by Lender in order to implement and document the transactions contemplated by this Agreement;

(b) Borrower and Lender anticipate entering into a development agreement or other similar agreement depending on the outcome of Borrower's Predevelopment Activities. Such agreements, or amendments thereto shall be in form and substance satisfactory to Lender.

(c) Borrower shall have executed and delivered to Lender the Guaranty of even date herewith (the "Guaranty") duly executed by Harsch Investment Properties LLC ("Guarantor");

(d) Each of Borrower's representations and warranties contained in Section 4 shall be true and correct in all material respects as if made on the date of such disbursement;

(e) No Event of Default shall have occurred under this Agreement (including, without limitation, a failure to perform any covenant set forth in Section 4) or the Note, and no event shall have occurred that, with the giving of notice or passage of time or both, would constitute an Event of Default; and

(f) The contractor and all subcontractors providing work product shall have been paid for the amounts covered by prior Requests for Disbursement.

4. BORROWER'S REPRESENTATIONS, WARRANTIES AND COVENANTS

Borrower represents, warrants and covenants to Lender the following as of the date of this Agreement, each disbursement date and during the term of this Agreement as follows:

4.1 Organization and Authority. Borrower is a limited liability company, duly and validly organized and in existence under the laws of the State of Oregon. Borrower has full legal right, power and authority, and all necessary licenses and permits required to (a) undertake and carry on the predevelopment work, (b) execute and deliver this Agreement, the Note and the other Loan Documents, and (c) carry out and consummate all transactions contemplated by this Agreement, the Note and the other Loan Documents.

4.2 No Violations or Default. Borrower is not in default under or in violation of any agreement to which it is a party or by which it is bound, nor any order, regulation, ruling or requirement of a court or other public body or authority. No creditor has given Borrower notice or threatened to give it any notice of default under any material agreement. At all times material to this Agreement, Borrower shall remain fully able to perform all of its duties and obligations.

4.3 Litigation. No action, suit, investigation or proceeding is pending against Borrower or with respect to the Project or the Predevelopment Activities before any court or administrative agency, (a) the outcome of which, by itself or taken together with any other litigation, might have a material adverse effect on the business, assets, operations, or financial condition of Borrower, or (b) which purports to affect the legality, enforceability or validity of any Loan Document.

4.4 Tax Returns. All federal, state, and other tax returns of Borrower required by law to be filed have been filed.

4.5 Compliance with Laws and Restrictions. Borrower will comply with or cause the Project and the Predevelopment Activities to comply with all laws, ordinances, statutes, rules, regulations, orders, injunctions or decrees of any government agency or instrumentality

applicable to Borrower, the Project, the Predevelopment Activities or the operation thereof, including all applicable health and safety, environmental and zoning laws.

4.6 **Standard of Work.** Borrower shall ensure that all activities, investigation and work product contemplated by this Agreement and undertaken by Borrower are of high quality and meet with the commonly accepted standards of persons performing such investigations or activities or producing such work product. If Borrower fails to take all reasonable steps of investigation, adequate contracting and monitoring, such failure shall be a breach of this Agreement.

4.7 **Licenses; Maintenance of Business.** Borrower will remain a limited liability company, validly existing under the laws of Oregon, and will keep in force all licenses and permits necessary to undertake and complete all predevelopment work.

4.8 **Performance of Obligations.** Borrower will pay principal and interest on the Loan in accordance with the terms of the Note and this Agreement, and will pay when due all other amounts payable by Borrower under this or any Loan Document.

4.9 **Other Obligations.** Borrower will timely pay and discharge all indebtedness, taxes and other obligations for which it is liable or to which its income or property is subject, as well as all claims for labor, materials or supplies that, if unpaid, might become by law a lien upon the subject property. Exception is made for any claim or obligation whose validity or amount is being contested in good faith by Borrower in appropriate proceedings, but Borrower must make adequate provision in accordance with generally accepted accounting principles to pay the claim or obligation if Borrower loses its contest. If Borrower fails to discharge any such claim or lien, Lender may, in its sole discretion and without waiving the default, pay the same, which payment shall, at Lender's option, be added to the amount outstanding under the Note.

4.10 **Indemnity.** Borrower shall indemnify and hold Lender and its commissioners, employees and agents harmless from and against any and all liabilities, claims, losses, damages, or expenses (including attorney fees, title costs and expenses) that any of them may suffer or incur in connection with (a) the inaccuracy of any of the representations and warranties made as part of this Agreement, and (b) any transaction contemplated by this Agreement or any other Loan Document. Nothing contained herein shall require Borrower to indemnify Lender for Lender's sole negligence or intentional misconduct.

4.11 **Additional Acts.** From time to time Borrower will execute and deliver all such instruments, provide such additional information and perform all such other acts as Lender may reasonably request to carry out the transactions contemplated by this Agreement.

4.12 **Acknowledgement.** Borrower acknowledges and agrees that the decision whether or not to relocate the Portland Mounted Patrol Unit will have a significant impact on the schedule and budget for the Project and that such decision regarding relocation has not been finalized nor budgeted.

5. EVENTS OF DEFAULT

Any of the following shall be an event of default under this Agreement (each, an “Event of Default”):

5.1 Failure to Pay Obligations Under the Note or Other Loan Documents When Due. Borrower fails to pay any sum due under the Note or another Loan Document within ten (10) days after the date it is due.

5.2 Failure to Comply with Covenants. Borrower fails to perform or abide by any other covenant in this Agreement, the Note or any other Loan Document, and such failure, to the extent curable, is not cured within thirty (30) days after written notice from Lender specifying the default; or, if such breach cannot with due diligence be cured within such period, if Borrower shall fail within such thirty (30) day period to commence cure of the failure and thereafter diligently complete such cure (which cure shall in any event occur within sixty (60) days after the default notice.)

5.3 Failure to Pay General Debts When Due.

(a) Borrower or any Guarantor (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of itself or of all or a substantial part of its property, (ii) admits in writing its inability to pay, or generally is not paying, its debts as they become due, (iii) makes a general assignment for the benefit of creditors, (iv) commences a voluntary action under the United States Bankruptcy Code (as now or hereafter in effect), (v) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, (vi) fails to controvert in a timely or appropriate manner, or acquiesces or consents in writing to, any petition filed against it in an involuntary action under the United States Bankruptcy Code, or (vii) takes any action for the purpose of effecting any of the foregoing.

(b) A proceeding or case is commenced against Borrower, without its consent, in any court of competent jurisdiction, seeking the liquidation, reorganization, dissolution, windup, or composition or readjustment of the debts of Borrower, (ii) a receiver, trustee, custodian, liquidator or the like is appointed for Borrower or for all or a substantial part of its assets, or (iii) relief is granted to Borrower under any law relating to bankruptcy, insolvency, reorganization, winding up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for any period of 60 days, or an order for relief against Borrower is entered in an involuntary case under the United States Bankruptcy Code.

5.4 Failure to Disclose Material Facts. Borrower fails to disclose any fact material to the making of any loan to Borrower, or Lender discovers any material misrepresentation by, on behalf of or for the benefit of Borrower.

5.5 **Failure to Diligently Pursue the Project.** Borrower fails to diligently pursue the Predevelopment Activities.

5.6 **Default Under Other Loans.** It shall be considered an Event of Default if Borrower defaults under any other loan and fails to cure such default within any applicable cure period set forth in the loan documents relating to such loan. If Borrower cures a default under any other loan, that cure shall constitute a cure under the Note or this Agreement, provided that no other Event of Default has occurred under the provisions of the Note or this Agreement. No waiver of this paragraph shall occur unless evidenced in writing.

6. RIGHTS AND REMEDIES ON EVENT OF DEFAULT

Upon the occurrence of an Event of Default and at any time thereafter, Lender may, at its option, exercise any one or more of the following rights and remedies:

6.1 **Acceleration.** Lender may declare the entire remaining unpaid balance of principal and unpaid accrued interest and other charges payable by Borrower pursuant to the Note or any other Loan Document to be immediately due and payable in full, without presentment, demand, protest, notice of protest or further notice of any kind, all of which are hereby expressly waived by Borrower.

6.2 **Other Remedies.** Lender may protect and enforce its rights by appropriate judicial proceedings, including, in appropriate cases, an award of specific performance or other equitable remedy in aid of the exercise of any power granted in or pursuant to this Agreement, the Note, or the other Loan Documents.

6.3 **Interest on Default.** Upon an Event of Default, interest under the Note shall accrue on the unpaid principal balance from the date of the Event of Default, or, if the Event of Default is a payment default, from the date the first unpaid payment was due, at a rate ("Default Rate") of twelve percent (12%) per annum until paid in full. If the unpaid principal balance is not paid in full on the Maturity Date (as defined in the Note), the unpaid principal balance shall bear interest from the Maturity Date at the Default Rate.

6.4 **Rights and Remedies Cumulative.** All rights and remedies described in this Section 6 are cumulative to any other remedy Lender may have by agreement, at law or in equity. Partial exercise of any right or remedy shall not limit or restrict Lender's subsequent exercise of such right or remedy, nor shall it restrict Lender's contemporaneous or subsequent exercise of any other right or remedy.

6.5 **No Waiver.** No failure or delay of Lender in exercising any right arising out of this Agreement shall operate as a waiver of that right or any other right. No modification or waiver of any provision of this Agreement, the Note or the other Loan Documents shall be effective unless in writing.

6.6 **Payment of Costs of Collection.** In case of an Event of Default, or in case litigation is commenced to enforce or construe any term of this Agreement, the Note or any other

Loan Document, the losing party will pay to the prevailing party the amount required to cover all costs of collection or enforcement, including, without limitation, reasonable attorney fees and costs prior to and at any arbitration proceeding or at trial, on appeal or in any bankruptcy proceeding.

6.7 **Deliver Work Product.** Upon an Event of Default, Borrower shall deliver to Lender the documents described in Section 1.7(a) within five (5) working days of the date of the Event of Default. Borrower shall further authorize any and all of its vendors, contractors or consultants engaged in any kind of work on the Predevelopment Activities to accept an assignment of Borrower's contract with them to Lender.

6.8 **Provide Accounting.** Upon an Event of Default, Borrower shall provide an accounting to Lender of all expenditures of funds disbursed under this Agreement and shall return any unused funds, to be applied first to any payments due to contractors, subcontractors, laborers, consultants or material suppliers under any contract related to the Predevelopment Activities, then to any outstanding interest, if any, and then to any principal outstanding under this Agreement and the accompanying Note.

7. MISCELLANEOUS

7.1 **Recourse Provision.** The obligations under this Agreement are with recourse to Borrower.

7.2 **Counterparts.** This Agreement may be executed in any number of counterparts. Any single counterpart or set of counterparts signed by all parties hereto shall constitute a full and original instrument, and all taken together constitute one and the same instrument.

7.3 **Survival.** All agreements, representations and warranties shall survive the execution and delivery of this Agreement, any investigation at any time made by Lender or on its behalf, the making of the Loan and the delivery of the Note.

7.4 **Notice.** Any notice required or permitted under this Agreement shall be in writing and shall be deemed effective (a) when actually delivered in person, (b) one business day after deposit with a commercial courier service for "next day" delivery, (c) two business days after having been deposited in the United States mail as certified or registered mail, or (d) when transmitted by facsimile (answer back or receipt confirmed), addressed to the parties as follows:

If to Borrower: Centennial Mills Portland, LLC
Attn: Jeff Nudelman
1121 SW Salmon Street, Suite 500

Portland, OR 97205
Phone: (503) 450-0819
Facsimile: (503) 274-2093

with a copy to:

If to Lender: Portland Development Commission
Attn: General Counsel
222 NW 5th Avenue
Portland, OR 97209-3859
Phone: (503) 823-3221
Facsimile: (503) 823-3368

7.5 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns.

7.6 **Governing Law.** This Agreement and the other Loan Documents shall be governed by and construed under Oregon law.

7.7 **Assignment.** Borrower may not assign this Agreement without the prior written consent of Lender.

7.8 **Modification; Prior Loan Agreements; Headings.** This Agreement may not be modified or amended except by an instrument in writing signed by Borrower and Lender. This Agreement, taken together with the other Loan Documents, reflects and sets forth the entire agreement and understanding of the parties with respect to the Predevelopment Activities, and supersedes all prior agreements and understandings related to such subject matter. The headings in this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms of the Agreement.

7.9 **Validity; Severability.** If any provision of this Agreement is held to be invalid, such event shall not affect, in any respect whatsoever, the validity of the remainder of this Agreement and the remainder shall be construed without the invalid provision so as to carry out the intent of the parties to the extent possible without the invalid provision.

7.10 **Schedules and Exhibits.** Any schedules or exhibits attached to this Agreement and referred to herein are incorporated in this Agreement as if they were fully set forth in its text.

7.11 **Time of Essence.** Time is of the essence for this Agreement and each of the Loan Documents.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

LENDER:

THE CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the **PORTLAND DEVELOPMENT COMMISSION**

By: _____
Patrick Quinton, Executive Director

BORROWER:

CENTENNIAL MILLS PORTLAND, LLC, an Oregon limited liability company

By: _____

APPROVED AS TO FORM:

Portland Development Commission
Lisa Gramp, Legal Counsel

List of Exhibits

Exhibit A Scope of Predevelopment Activities

Exhibit B Disbursement Request Form

EXHIBIT A

**SCOPE OF PREDEVELOPMENT ACTIVITIES
(AS MAY BE AMENDED FROM TIME TO TIME)***

| Activity | “Not to Exceed” Amounts | Description | Due Date |
|--|--------------------------------|-----------------------|-----------------|
| Geo Tech | \$10,000.00 | | |
| Environmental Analysis, Underwriting | \$30,000.00 | | |
| Tanner Creek Analysis, Resolution | \$10,000.00 | | |
| Land Use and Permitting | \$10,000.00 | | |
| Planning, Architecture, Landscape design | \$446,500.00 | Schematic design work | |
| Waterway/Greenway Analysis and Design | \$25,000.00 | | |
| Civil | \$25,000.00 | | |
| Structural | \$50,000.00 | | |
| Cost Estimating | \$10,000.00 | | |
| Market Analysis | \$20,000.00 | | |
| Lead Compliance/Sustainability | \$20,000.00 | | |
| Historic Preservation/Tax Credit Feasibility | \$5,000.00 | | |
| Regulatory Analysis and Compliance | \$5,000.00 | | |
| Legal | \$10,000.00 | | |
| Public Agency Coordination | \$10,000.00 | | |
| Marketing/Tenant Procurement | \$5,000.00 | | |
| Reimbursables | \$5,000.00 | | |
| PDC Loan Fee | \$3,500.00 | | |
| | | | |
| Total | \$700,000.00 | | |

****Scope of Predevelopment Activities to be reviewed and approved by Lender prior to any disbursement of Lender funds.***

EXHIBIT B

RESOLUTION NO. 6998

RESOLUTION TITLE:

AUTHORIZING A PREDEVELOPMENT LOAN WITH CENTENNIAL MILLS PORTLAND, LLC IN AN AMOUNT NOT TO EXCEED \$350,000 FOR DUE DILIGENCE AND SCHEMATIC DESIGN FOR CENTENNIAL MILLS IN THE RIVER DISTRICT URBAN RENEWAL AREA


Adopted by the Portland Development Commission on April 9, 2013

| PRESENT FOR VOTE | COMMISSIONERS | VOTE | | |
|---|-------------------------------|--|--------------------------|-------------------------------------|
| | | Yea | Nay | Abstain |
| <input checked="" type="checkbox"/> | Chair Scott Andrews | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | Commissioner Aneshka Dickson | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | Commissioner John Mohlis | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | Commissioner Steven Straus | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> | Commissioner Charles Wilhoite | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Consent Agenda | | <input checked="" type="checkbox"/> Regular Agenda | | |

CERTIFICATION

The undersigned hereby certifies that:

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

| | |
|---|---|
|  | <p>Date:</p> <p>April 10, 2013</p> |
| <p>Gina Wiedrick, Recording Secretary</p> | |