

Dated: November 9, 2006

RECITALS

B. The Original DA was authorized by PDC on August 14, 2003, accepted by the Portland City Council on August 15, 2003, and signed by all Parties on August 22, 2003. The Original DA has been amended by the First Amendment to the South Waterfront Central District Project Development Agreement dated February 18, 2004, the Second Amendment to the South Waterfront Central District Project Development Agreement dated April 1, 2004, the Third Amendment to South Waterfront Central District Project Development Agreement dated June 25, 2004, the Fourth Amendment to South Waterfront Central District Project Development Agreement dated October 29, 2004, the Fifth Amendment to South Waterfront Central District Project Development Agreement dated November 24, 2004, the Sixth Amendment to South

Waterfront District Project Development Agreement dated December 17, 2004, and the Seventh Amendment to South Waterfront Central District Project Development Agreement dated June 8, 2005. The Original DA, as amended by the first, second, third, fourth, fifth, sixth and seventh amendments, is referred to herein as the "DA."

C. The parties desire to provide funding for increased construction costs associated with the Tram and to provide additional funding for the Phase 1, Tier 1 and Tier 2 Public Projects contemplated by the DA.

D. The Parties have agreed that such funding will be provided in accordance with that certain South Waterfront Public Projects Funding Proposal dated April 11, 2006 (the "Funding Proposal"), which Funding Proposal was approved by PDC's Board of Commissioners in a public meeting on April 11, 2006 under Resolution #6348 and accepted by City Council in a public meeting on April 19, 2006 under Resolution #36400.

E. Capitalized terms used but not defined in this Eighth Amendment to South Waterfront Central District Project Development Agreement (the "Amendment") shall have the meanings set forth in the DA.

AGREEMENT

Now, therefore, in consideration of the mutual benefits to be realized by the Parties following this Amendment, the following sections and subsections of the DA shall be modified as shown below. Underlining indicates language added by this Amendment to existing language in the DA; ~~stricken~~ words indicate text deleted from the DA.

1. Section 2.2.3 of the DA is hereby revised as follows:

2.2.3 Initial Greenway Improvements and Final Greenway Improvements

2.2.3.1 The Initial Greenway Improvements consist of those improvements to the Willamette River Greenway within the Project Area described below in Section 6.5.1, which will be installed by RCI or NMI.

2.2.3.2 The Final Greenway Improvements consist of those improvements to the Willamette River Greenway within the Project Area described below in Section 6.5.6, which will be installed by PDC.

2. Section 2.2.5 of the DA is hereby revised as follows:

2.2.5 Phase 1 Condominiums

Phase 1 Condominiums means the construction of ~~500-800~~1000-1650 condominium units in Buildings on any of the Residential Blocks and will include neighborhood ground floor retail. The Phase 1 Condominiums will include 30 Affordable Condominiums, pursuant to Section 10.3.3.2.

3. Section 2.2.7 of the DA is hereby revised as follows:

2.2.7 Phase 1 Affordable Apartments

Phase 1 Affordable Apartments means the construction of approximately 200 Affordable Apartments to be built ~~primarily on~~ **the Block 33** Parking Garage(s) in the Project Area. **or on Block 49.** Parking for Affordable Apartments will be provided as appropriate and financially feasible.

4. Section 2.2.10 of the DA is hereby deleted in its entirety and Sections 2.2.11 through 2.2.17 are renumbered as Sections 2.2.10 through 2.2.16, respectively.

~~2.2.10~~ Hotel

~~———— The Hotel means the construction of a hotel within the Project Area with at least 150 to 250 rooms, meeting room space of at least 15,000-25,000 square feet, a full-service restaurant and lounge, and potentially, amenities such as: a health/exercise facility, pool, business center and related retail shops. The Hotel will be subject to property taxation.~~

5. Section 2.2.11 of the DA is hereby revised as follows and is renumbered as Section 2.2.10:

2.2.10 Phase 1 Neighborhood Park Project

The Phase 1 Neighborhood Park Project means the acquisition of property rights to Blocks 32 and 36 sufficient to enable PDC and the Parks Bureau to build a public park, ~~demolition of~~ **demolish** existing improvements, and the installation of **install** the initial park landscaping (grass) and improvements (irrigation system), **and construct the Final Neighborhood Park Improvements pursuant to Section 6.4.2 and the Schedule.**

6. The following Section 2.2.17 is hereby added to the DA immediately following Section 2.2.16:

2.2.17 Streetcar Extension to Lowell

The Streetcar Extension to Lowell ("Lowell Streetcar Extension") means the extension of the Portland Streetcar from the Gibbs Street Station to the Lowell Street Station.

7. Sections 2.3.1 and 2.3.2 are hereby deleted in their entirety.

~~2.3.1~~ Phase 2 Greenway Improvements

~~The Phase 2 Greenway Improvements means the Final Greenway Improvements to be installed by PDC or the Parks Bureau pursuant to Section 6.5.6.~~

~~2.3.2~~ Phase 2 Condominiums

~~———The Phase 2 Condominiums means the construction of 380 to 460 condominium units on any Residential Block. The Phase 2 Condominiums will be located in a Building(s) that include(s) neighborhood ground floor retail. PDC strongly encourages the inclusion of Affordable Condominiums in the Phase 2 Condominiums so as to enhance the income mix of residents and the variety of housing in the Project Area.~~

8. Section 2.3.6 of the DA is hereby deleted in its entirety.

~~2.3.6 Phase 2 Streetcar Extension~~

~~———The Phase 2 Streetcar Extension means the extension of the Portland Streetcar from the Gibbs Street Station to the Bancroft Street Station.~~

9. Section 2.3.8 of the DA is hereby deleted in its entirety.

~~2.3.8 Phase 2 Neighborhood Park Project~~

~~———The Phase 2 Neighborhood Park Project means the construction of the final improvements to the Neighborhood Park.~~

10. The following Section 2.4.5 is hereby added to the DA immediately following Section 2.4.4:

2.4.5 Hotel

The Hotel means the construction of a hotel within the Project Area with at least 150 to 250 rooms, meeting room space of at least 15,000-25,000 square feet, a full-service restaurant and lounge, and potentially, amenities such as: a health/exercise facility, pool, business center and related retail shops. The Hotel will be subject to property taxation.

11. Section 3.1 of the DA is hereby revised as follows:

3.1 Description of Funding and Financing Plan

3.1.1 The Parties have agreed to a Funding and Financing Plan for certain elements of Phase 1 of the Project, **including funding for all Public Projects**, which are described in the Funding and Financing Plan. The Funding and Financing Plan is attached as Exhibit I. The Funding and Financing Plan sets out the sources and uses of the public and private funds to be invested and the allocation of financial responsibilities among the Parties; ~~and the timing by fiscal year for infrastructure improvements.~~ Where this Agreement refers to “necessary funding” or “necessary financing” to undertake a Contingent Project, such funding or financing shall be the amounts and under the terms set out in the Funding and Financing Plan. The Parties agree to provide the respective funds when and as required by the Funding and Financing Plan, subject to the terms and conditions of this Agreement (including, without limitation, the Street Improvement Project Funding Agreement and the Tram Construction Funding Agreement).

3.1.2 The Funding and Financing Plan allocates \$3,292,000 to improve the Moody Avenue right-of-way to South Waterfront District Street Plan Criteria and Standards. The Parties hereby agree to reduce the level of improvements to the Moody Avenue right-of-way to approximately \$800,000, which is the cost to complete final improvements to the intersection of Moody Avenue and Gibbs Street and the temporary improvements referred to in Section 6.17. PDC agrees to utilize \$2,191,000 of the funds generated by the reduction in the budgeted amount of Moody Avenue right-of-way improvements to perform its obligations under the Affordable Housing Parking Agreement, with any remaining balance to be applied to district-wide transportation studies and south portal planning in the amount of \$250,000 and to fund the Public Street Obligations and the Macadam Avenue Street Project in the amount of \$51,000. The Parties acknowledge and agree that the revisions contemplated by this Section 3.1.2 do not require any additional monies to fund public or private obligations under the Funding and Financing Plan but are a mere re-allocation of funds already budgeted and reflected in the Funding and Financing Plan. *Exhibit I* attached to this Amendment has been revised accordingly and includes the final improvements of Moody Avenue as a Tier 2 Project. ~~Nothing in this Amendment shall be construed or interpreted to alleviate PDC of its obligations under the Phase 1 Street Improvement Project or under Sections 2.2.15 and 6.17 of the DA.~~

12. Section 3.2.3.3(c) of the DA is hereby revised as follows:

3.2.3.3(c) For federal fiscal years 2004-07, for every dollar (\$1.00) of federal funding obligated as a result of the OHSU SWF Federal Funding Initiative in excess of \$4.2 million, to the extent that those dollars directly or indirectly can be substituted for the planned investment of funds generated from tax increment revenue in (i) Public Projects ~~contemplated by~~in the Funding and Financing Plan (as may be modified by the Parties) and/or (ii) other public projects contemplated or undertaken by a party other than OHSU in the UR Area (collectively, as used in this Section 3.2.3, "TIF Funds"), PDC will make an Additional Conditional Investment of fifty cents (\$0.50) of TIF Funds in Phase 2 and Phase 3 OHSU capital project(s) up to a maximum of \$9 million, subject to the following terms and conditions:

(1) Federal funding to which the OHSU TIF Investment Formula will be applied includes all federal obligations for South Waterfront Plan Area projects listed in the agenda agreed upon by PDC and OHSU for the OHSU SWF Federal Funding Initiative. It includes but is not limited to TEA-LU, VA/HUD and annual federal transportation bills. Monies appropriated directly to OHSU are excluded, as are federal funds that result from the independent efforts of the City or PDC. PDC shall annually notify, in writing, OHSU and OHSU's contractor for the OHSU SWF Federal Funding Initiative of such independent efforts at the beginning of the appropriation process in connection with the setting of the agenda for the SWF Federal Funding Initiative for the relevant federal fiscal year.

(2) PDC will invest the TIF Investment Funds in ~~Phase 2 OHSU capital projects supporting commercializable research or other projects that are expected to result in economic development growth in the South Waterfront Plan Area~~the Tram, the Phase 2 Parking Garage or Phase 2 OHSU Buildings. Notwithstanding the foregoing, to the extent that ~~all needs to fund the Phase 1 Tier 1 Public Projects have been met and there are remaining TIF Funds available in Phase 1, PDC's investment of TIF Investment Funds in OHSU~~

commercializable research projects will be advanced to Phase 1. Notwithstanding the foregoing, to the extent the TIF Investment Funds are not fully expended by the time OHSU has completed its Phase 2 obligations, the provisions of this Section 3.2.3 concerning the application of TIF Investment Funds shall apply to OHSU's Phase 3 Projects. **OHSU has not used the TIF Investment Funds available from PDC for such projects, the TIF Investment Funds may be used for a Phase 3 OHSU Building.**

(3) PDC will document receipt of Federal funding to which the OHSU TIF Investment Formula will be applied and provide to OHSU an annual report of the amount of TIF Investment Funds that are available for the Phase 2 **or Phase 3** OHSU projects described in subsection (2) immediately above.

(4) PDC will invest the TIF Investment Funds in an eligible OHSU capital project within 30 days of invoice by OHSU. PDC will allocate and/or pay no more than one-third of net TIF Investment Funds available for project activities for this purpose in any PDC fiscal year.

(5) Notwithstanding anything to the contrary set forth herein, OHSU may use up to \$3.4 million of the TIF Investment Funds to fund a portion of its contribution to Tram construction costs and/or to partially fund the cost of constructing a Parking Garage on Block 33 as such Parking Garage may be a podium for 400 Affordable Apartments.

13. Section 3.4 of the DA is hereby revised as follows:

3.4 LID Liens

3.4.1 ~~Prior to or after the spreading of an assessment lien against the NMI Land and the RCI Land for any of the LIDs, any Party owning the subject land may elect to remove the lien of the LID from the subject land by providing PDC with a first lien upon, or pledge of, cash or a cash equivalent in an amount equal to the amount of the LID lien, and PDC agrees to cause the LID lien to be removed from such land.~~

3.4.1 **The formation documents for the Lowell Streetcar Extension LID include a provision that allows for the obligation to pay the LID assessment and the liens securing such obligation to be allocated to a different property within the LID, subject to property value underwriting, environmental assessments, title review and other terms acceptable to the City.**

3.4.2 **For the Streetcar Extension (Riverplace to Gibbs) and the Tram (South Waterfront Area and Marquam Hill) LID's, the City has adopted the SSP to provide alternative financing of those LID obligations, to be secured by properties within the LID other than those originally identified in the LID formation documents, subject to**

property value underwriting, environmental assessments, title review and other terms acceptable to the City.

14. Section 3.5 of the DA is hereby deleted in its entirety.

3.5 Use of Phase 1 Excess Tax Incremental Revenue

In the event that Tax Increment Revenue (as defined in Section 18.2.3) exceeds Target Tax Increment Revenue (as defined in Section 18.2.4), the Funding and Financing Plan provides that certain public Contingent Projects will be accelerated in a priority set forth in the Funding and Financing Plan based upon the capacity of identified amounts of excess actual Tax Increment Revenue to support debt to fund the identified Contingent Projects. **[Intentionally Omitted.]**

15. Section 5.1.2 of the DA is hereby revised as follows:

5.1.2 The Schedule sets forth a date by which each Basic Contingency must be satisfied or waived. Each of the Parties benefited by each Basic Contingency shall determine whether or not a Basic Contingency has or has not been satisfied or will or will not be waived by the date set forth in the Schedule for that determination. ~~The Schedule provides that the latest date for the satisfaction of the last Basic Contingency is January 28, 2005. The Parties acknowledge that as the Final Termination Date has been extended pursuant to the Fourth and Fifth Amendments, the corresponding dates for the satisfaction of then remaining~~ **According to the Schedule, all Basic Contingencies has been extended for the same time period. have been satisfied or waived.**

16. Section 5.2.5 of the DA is hereby revised as follows:

5.2.5 LID Formation

The Parties agree to propose the formation of the LIDs referred to in Sections 5.2.5.1 through 5.2.5.4~~6~~, and each Party agrees to be a chief petitioner. A Basic Contingency is the execution and delivery to the City by RCI, NMI, Block 39 and OHSU and sufficient other benefited property owners, so as to constitute a majority of the benefited property owners, of waivers of remonstrance waiving their respective rights to object to the formation of all of the following local improvement districts ("LIDs"), the Final Approval by the City of such LIDs and the formation of such LIDs described below. The formation of an LID pursuant to Section ~~5.2.5.6~~ **5.2.5.4 for the Lowell Streetcar Extension** is not a Basic Contingency. The LID described in Section ~~5.2.5.6~~ **5.2.5.4** will become a Project Contingency ~~in Phase 2 or Phase 3.~~ **to the Lowell Streetcar Extension.** All Parties are benefited by the Basic Contingencies relating to formation of the remaining identified LIDs. Subject to the maximum amounts which may be assessed for each LID set forth in Exhibits K-1 through K-6 and subject to final agreement as to the assessment formulae and benefited area for the LIDs, OHSU, RCI, NMI and Block 39 agree to each provide a separate waiver of remonstrance to the formation of each of such LIDs assessing property owned or controlled by each such Party. These waivers of remonstrance shall be binding on the Party giving the waiver and on that Party's successors, grantees, vendees and assigns including, but not limited to, individual condominium unit purchasers.

5.2.5.1 Streetcar – PSU to RiverPlace. An LID to provide financing in an amount not to exceed \$3,000,000 for the extension of the Streetcar from its current terminus at Portland State University to the RiverPlace Station, as set forth in Exhibit K-1.

5.2.5.2 Tram (South Waterfront Plan Area). An LID to provide financing in an amount not to exceed ~~\$19,000,000~~ \$36,600,000 for the Tram as set forth in Exhibit K-2.

5.2.5.3 Streetcar – RiverPlace to Gibbs. An LID to provide financing in an amount not to exceed \$2,020,000 for the extension of the Streetcar from the RiverPlace Station to the Gibbs Street Station as set forth in Exhibit K-5.

5.2.5.4 Streetcar – Gibbs to Bancroft ~~Lowell~~. An LID to provide financing in an amount not to exceed ~~\$1,367,400~~ \$4,800,000 for the ~~extension of the Lowell Streetcar from the Gibbs Street Station to the Bancroft Street Station~~ Extension as set forth in Exhibit K-~~6.6~~.

17. Sections 6.2.1 and 6.2.2 of the DA are hereby revised as follows:

6.2.1 Construction and Ownership of Tram

PDC will cause PDOT to contract with PATI for the design of the Tram. PDC will cause PDOT to enter into a construction contract or contracts for the construction of the Tram. PDOT will own the Tram. ~~The Tram construction contract will provide for a scheduled final completion date that~~ **The Tram Early Opening and the Late Completion of the Tram shall occur on or** before the scheduled opening date of the Phase 1 OHSU Building, and OHSU will provide PDOT with the scheduled opening date for the Phase 1 OHSU Building before PDOT commences negotiations of the construction contract. OHSU agrees that, as of the scheduled opening date of the Phase 1 OHSU Building, OHSU will have obtained a temporary certificate of occupancy for that Building, and that 75% of the net useable space within that Building will be subject to binding leases with tenants, including OHSU Affiliates, or will be scheduled for occupancy by OHSU within six (6) months after the scheduled opening date. **each respective date for such event as set forth in the Schedule. OHSU agrees that, as of the Tram Early Opening, OHSU will have obtained a temporary certificate of occupancy for the Phase 1 OHSU Building.**

6.2.2 Funding of Tram Construction

6.2.2.1 **General.** The Tram construction will be funded according to the Funding and Financing Plan. Each Party that is identified in the Funding and Financing Plan as a source of funds for the Tram hereby agrees to provide the amount of funds indicated for that Party in the Funding and Financing Plan, as and when required by the Funding and Financing Plan. The mechanics of the payment of funds for the construction of the Tram shall be set forth in the Tram Construction Funding Agreement to be negotiated and agreed upon by OHSU, PDOT and PDC. Any enhancements to the Tram requested by a Party that are included in the construction of the Tram shall be paid for by the requesting party outside of the Funding and Financing Plan without contribution by the other Parties.

6.2.2.2 In the event the actual cost of the Tram exceeds \$28.5 million, then OHSU shall be responsible for financing (through a LID on only OHSU properties) the additional Tram costs up to a maximum additional amount of \$11.5 million, and PDC and the City shall not be obligated to pay such increased costs. The Funding and Financing Plan is hereby amended to be consistent with this Section 6.2.2. Accordingly, *Exhibit I* of the DA is deleted and replaced with *Exhibit I* attached hereto. In recognition of OHSU's agreement to bear the burden of additional costs associated with the construction of the Tram, any unused contingency funds in the Tram construction budget will be applied to reduce OHSU's LID obligation in an amount not to exceed \$11.5 million. Additional Funds Contributed by NMI. NMI will provide an additional \$2,500,000 to partially fund Tram construction costs ("NMI Funding Obligation"). The NMI Funding Obligation will be financed by the City on terms acceptable to the City. NMI will execute a promissory note in the amount of Two Million Five Hundred Thousand (\$2,500,000) and secure its obligation to the City by recording a trust deed against property acceptable to the City.

6.2.2.3 Additional Funds Contributed by OHSU. As contemplated by the Funding Proposal and set forth in the Funding and Financing Plan, OHSU will provide an additional \$9.5 million to partially fund Tram construction costs. OHSU may fund such sums from any or all or a mix of the following sources, to be determined by OHSU in its sole discretion: (a) additional cash contributions; (b) assumption of additional LID obligations; (c) a transfer from OHSU of up to \$2.25 million of savings realized from a reduced interest rate on OHSU's LID assessments; and (d) in accordance with Section 3.2.3.3(c)(5), a transfer of TIF Investment Funds owed by PDC to OHSU in an amount not to exceed \$3.4 million.

6.2.2.4 Bump Rate. The City shall reduce the LID charge known as the "bump rate" to 0.25 percent for participants in the LIDs for the Streetcar Extension, for the Lowell Streetcar Extension and for the Tram. If for any reason the City does not so reduce the bump rate in the contracts for the foregoing LIDs, OHSU shall be entitled to recover from PDC an amount equal to any bump rate interest expense in excess of 0.25 percent for such LIDs.

6.2.2.5 SDC Credits.

(a) OHSU has applied for, obtained and is entitled to some transportation SDC credits ("SDC Credits") in accordance with City Code. Notwithstanding OHSU's ability to obtain SDC Credits under the City Code, OHSU agrees that it will not seek SDC Credits related to its investment in the Tram in excess of \$4.3 million. Any SDC Credits obtained shall be used by OHSU in accordance with applicable Laws.

(b) If, within the ten years after the City grants OHSU the SDC Credits described in subsection (a) above;

(i) the City changes or interprets any Laws in a manner that results in OHSU's inability to receive or use the full value of the transportation SDC

Credits ("City Action"), then PDC will purchase any SDC Credits then held by OHSU for the market value of the credits on the date immediately prior to the City Action; or

(ii) changes to State or Federal Law result in a decrease in the value of the SDC Credits ("State or Federal Action"), PDC and OHSU will negotiate in good faith a reasonable solution that, to the greatest extent possible, holds OHSU harmless from such State or Federal Action.

In the event that PDC and OHSU disagree on the market value of the SDC Credits that PDC must purchase in the case of a City Action, or fail to reach a negotiated solution in the case of State of Federal Action, such disagreement or failure shall be resolved by Dispute Resolution.

6.2.2.6 PDC, through the City Office of Management and Finance, agrees to offer assessed property owners in the Tram LID an assessment contract payment option that will allow the first payment under the assessment contract to occur no earlier than July 1, 2007 (2007-2008 fiscal year.)

6.2.2.7 OHSU, NMI and PDC will establish an oversight committee, or such other mechanism as they may agree to, for the purpose of: (a) monitoring the progress and costs associated with construction of the Tram; (b) approving future proposals for use of excess Tram funds not committed in the Tram schedule of costs as of April 19, 2006 and approved and pending change orders as of August 30, 2006; and (c) approving use of Tram contingency funds remaining after any future change orders approved by the PDOT construction manager needed to complete construction. The PDOT construction manager shall consult with the OHSU and PDC South Waterfront project managers prior to approving any change orders, and in the event of disagreement, any party may submit the issue to the oversight committee for resolution. The parties to, and members of, the oversight committee are shown on Exhibit N attached hereto.

6.2.2.8 OHSU agrees that it will consider contributions to the cost of constructing the Tram in excess of the funds committed in Section 6.2.2.3 and other funds committed to the Tram by OHSU only in the event of an unforeseeable catastrophic event or an act of God.

18. Section 6.4.1 of the DA is hereby revised as follows and a new Section 6.4.2 is hereby added to the DA immediately following Section 6.4.1:

6.4.1. Land Acquisition and Initial Park Improvements

The Parties intend that Blocks 32 and 36 be acquired and used as a public park with, potentially, a below-grade parking structure to be built by OHSU. Without regard to whether all Basic Contingencies are satisfied (or waived) or not, PDC (or the City or the Parks Bureau, as appropriate), subject to any legal constraints related to PDC's condemnation proceedings, will acquire possession of Blocks 32 and 36 and construct the initial park improvements thereon as follows: (a) by December 31, 2004, PDC will file a motion for a possession hearing to acquire the Neighborhood Park or shall have otherwise resolved any and all issues related to PDC's right to possession of such property; (b) resolution of issues related to PDC taking possession of the Neighborhood Park may permit Public Storage to occupy the Neighborhood Park until December 31, 2005; (c) the City, PDC or the Parks Bureau will have abatement, demolition and construction contracts related to the Neighborhood Park Project in

place by December 15, 2005; (d) PDC, the City or the Parks Bureau will issue a notice to proceed for abatement work not later than January 15, 2006; (e) PDC, the City or the Parks Bureau will issue a notice to proceed for demolition of all buildings on the Neighborhood Park and for construction of the initial improvements thereon in accordance with Section 2.2.11 (collectively, the "Public Park Improvements") by February 15, 2006; and (f) the City, PDC or the Parks Bureau will complete the Public Park Improvements by July 1, 2006. Thereafter, the City, PDC or the Parks Bureau will maintain the Public Park Improvements in accordance with City park standards. Notwithstanding legal constraints related to PDC's condemnation proceedings or anything to the contrary contained herein, PDC's obligation to complete the Phase 1 Neighborhood Park Project as described in Section 2.2.11 shall be specifically enforceable by the other Parties hereto. If PDC intends to acquire Blocks 32 and 36 at a price greater than its appraised value, PDC will consult with OHSU regarding the acquisition price.

6.4.2 Final Neighborhood Park Improvements

PDC shall fund, design and construct the Final Neighborhood Park Improvements in accordance with Exhibit O and the Schedule.

19. Section 6.4.3 of the DA is hereby renumbered as Section 6.4.4 and revised as follows:

6.4.3 Parks Master Plan

6.4.4 Neighborhood Park Design

The Parks Bureau intends to ~~conduct a master planning~~ **PDC or the City will conduct a master public design** process that will develop the design and programming of the Neighborhood Park and additional parks in ~~the South Waterfront Plan Area. The Parks Bureau agrees to involve each of NMI, OHSU Community Association and the Bureau of Planning as a full participant in that master planning process.~~ **The process will include each of NMI, OHSU, the South Waterfront Plan Area. The Parks Bureau agrees to involve each of NMI, OHSU Community Association and the Bureau of Planning as a full participant in that master planning process. The final Neighborhood Park design resulting from such process shall be the "Final Neighborhood Park Improvements."**

20. Sections 6.4.4 through 6.4.5 are renumbered as Sections 6.4.5 and 6.4.6, respectively.

21. Sections 6.5.4.1 and 6.5.4.2 are hereby revised as follows:

6.5.4.1 RCI agrees to dedicate the RCI Greenway Parcel ~~within six (6) months after the commencement of above grade construction has occurred on Blocks 23, 27 and 30~~ **after RCI has completed construction/staging activities on the RCI Greenway Parcel**, but not earlier than January 2, 2006 **July 15, 2007**; and

6.5.4.2 NMI agrees to dedicate the NMI Greenway Parcel ~~within six (6) months after the commencement of above grade construction has occurred on Block 34~~ **after NMI has completed construction/staging activities on the NMI Greenway Parcel**, but not earlier than January 2, 2006 **July 15, 2007**;

22. Section 6.5.6 of the DA is hereby revised as follows:

6.5.6 Final Greenway Improvements

6.5.6.1 If the City has accepted the dedication of the Greenway Parcels, or if the City reasonably believes that the Greenway Parcels will be dedicated based on the acceptable initial reviews described in Section 6.5.4.4 and 6.5.4.6, the City will contract for the final design of the Final Greenway Improvements proposed in the Greenway Development Plan consistent with the Schedule and the Greenway Development Plan Implementation Strategy, and after dedication is complete, will contract for their construction. ~~Construction~~**Design and construction** of the Final Greenway Improvements will be phased based on funding availability **in accordance with Exhibit O and the Schedule**. The Final Greenway Improvements will include the design and construction of trails through the Greenway Parcels. The City or PDC will not be obligated to commence construction of the Final Greenway Improvements until after substantial completion of Buildings on Blocks 23, 27, 30, 34 and 37, and the City shall complete construction of the Final Greenway Improvements by December 31, 2012. ~~The timing of the City~~**NMI and RCI have terminated all construction/staging activities on their respective Greenway Parcels, and the City or PDC has accepted dedication of both Greenway Parcels. The timing of the City's or PDC's** obligation to complete the Final Greenway Improvements is based on the Parties' assumption that the City Code allows, or, through a discretionary approval could allow, the stated timing. NMI and RCI agree to apply for that discretionary approval by the City that may be required to extend the timelines for completion of the Final Greenway Improvements beyond the completion of a Building on land adjacent to that Party's current or former Greenway Parcel. If Final Approval of the extension is not granted, then PDC shall construct those Greenway Improvements as and when required by the City so as to enable Buildings to be built on adjacent Blocks in accordance with the Schedule.

6.5.6.2 If the City or PDC has not accepted the condition of title or the environmental condition of the Greenway Parcels in the ~~processes~~**process** described in Section 6.5.4.4 and 6.5.4.6, the City or PDC will not contract for the design or construction of the Final Greenway Improvements. If after acceptance of the initial review of the conditions of title and the environmental conditions of the Greenway Parcels, and after the city ~~City or PDC~~ has contracted for design of the Final Greenway ~~improvements~~**Improvements**, the City or PDC has not accepted the dedication of the Greenway Parcels because of unacceptable conditions to title or unacceptable environmental conditions (as described in Section 6.5.4.4 and 6.5.4.6) then the City or PDC shall have no obligation to contract for the construction of the Final Greenway Improvements.

6.5.6.3 In accordance with the Funding and Financing Plan, \$2 million dollars of additional funding will be sought from the Parks Bureau to fund the design and construction of the Final Greenway Improvements. To assist with this funding need, NMI and its affiliates or transferees will purchase \$3 million of Parks SDCs between March 1, 2006 and June 1, 2009, regardless of whether such purchase is required by development in the Project Area. On or before January 30, 2009, NMI will submit to PDC a report showing the value of Parks SDC's NMI and its affiliates or transferees purchased from March 1, 2006 through December 31, 2008, and the value of any Parks SDC's NMI anticipates NMI and its affiliates or transferees will purchase before June 1, 2009. PDC

will confirm with the Parks Bureau the total value of Parks SDC's purchased by NMI and its affiliates or transferees through June 1, 2009, and if that value is less than \$3 million dollars, PDC will notify NMI of the difference. Within thirty (30) days of receipt of PDC's notice, NMI will pay the difference in cash to PDC. Any disagreement relating to the value of SDC's purchased by NMI and its affiliates or transferees or the remaining difference will be resolved by Dispute Resolution.

23. Section 6.5.7.2 of the DA is hereby revised as follows:

6.5.7.2 After conveyance of each Greenway Parcel, the City, shall operate and maintain that Greenway Parcel consistent with the Greenway Development plan Implementation Strategy at its cost and expense, shall operate and maintain all components of each Greenway Parcel to a standard of maintenance applied by the Parks Bureau at least equal to the standard applied to other downtown and Central City urban parks. Such standard of maintenance is referred to by the parties as the "Clean and Safe" standard used by the Parks Bureau. Maintenance levels above this Clean and Safe standard shall not be the City's responsibility. Upon dedication of each Greenway Parcel to the City, the City will hold the Greenway Parcel in fee simple ownership.

24. The following new Section 6.8.3 is hereby added to the DA immediately following Section 6.8.2:

6.8.3. Funds from OHSU Taxable Projects.

6.8.3.1 OHSU and PDC have agreed that the Phase 1 Parking Garage is an important public amenity, which will contain parking for the affordable housing towers to be constructed above the podium, public parking spaces, and parking spaces for OHSU to support OHSU's activities in the Project Area, including the activities contemplated by this Agreement. OHSU and PDC have also agreed that the intent of this provision allocating an Investment Amount (defined below) to the Phase 1 Parking Garage is to provide funding for additional public investment in the Project Area infrastructure and that such funds will be used to partially defray OHSU's share of the costs of the podium that supports the affordable housing towers to be built on Block 33.

6.8.3.2 PDC shall invest additional public funds in the Phase 1 Parking Garage if taxable projects in the UR Area are (x) developed on (i) OHSU Blocks, whether owned and developed by OHSU or by a third party transferee or (ii) other land in the UR Area owned by OHSU on the date of this Amendment, whether developed by OHSU or by a third party transferee and (y) developed consistent with (1) any covenants and restrictions applicable to the OHSU Blocks or other land and (2) the OHSU policy and mission as described in Oregon Revised Statutes Section 353.030 (each, an "OHSU Taxable Project").

6.8.3.3 If OHSU develops an OHSU Taxable Project, then PDC will invest in the Phase 1 Parking Garage an amount equal to fifty percent (50%) of the projected amount of tax increment financing (bonded debt proceeds) that can be obtained by PDC

based on the applicable Tax Increment Revenue generated by such OHSU Taxable Project (the "Investment Amount"). The Investment Amount shall be used by PDC to partially defray OHSU's costs of constructing the Phase 1 Parking Garage on Block 33. Notwithstanding the foregoing, in no event will the Investment Amount exceed the lesser of (a) one half of OHSU's Garage Costs and (b) \$25 million, provided, however, that such fixed amount shall be increased annually to capture inflation in construction costs from the date of this Amendment. The inflation adjustment shall be calculated based on the McGraw Hill monthly publication "Engineering News Report" ("ENR") cost index for Portland, Oregon for the time period commencing on the date of the execution of this Amendment and ending on September 19, 2010. If the ENR cost index is discontinued, the parties shall mutually agree on a substitute monthly construction cost index that most closely approximates the ENR cost index for Portland, Oregon. For purposes of this Section 6.8.3.3, "OHSU's Garage Costs" means the actual hard and soft costs incurred by OHSU to construct the Phase 1 Parking Garage, which costs shall include the cost of the land but exclude financing costs and costs funded by: (i) PDC's Affordable Parking Payment; (ii) PDC's payment for Structural Enhancements; (iii) other sums (excluding loans) received by OHSU from the City or PDC for the construction of the Phase 1 Parking Garage; and (iv) monies received by OHSU for construction of the Phase 1 Parking Garage that are attributable to lobbying efforts funded by the City or PDC, but only to the extent and based on the percentage of the applicable lobbying effort actually funded by the City or PDC.

6.8.3.4 No later than the first January 15th following the first year that a completed OHSU Taxable Project is fully assessed and included on a tax roll that has been certified by the tax assessor, PDC will convert the Tax Increment Revenue from such OHSU Taxable Project (excluding Tax Increment Revenue generated by ground floor retail in any Phase 1, Phase 2 or Phase 3 OHSU Project) to an Investment Amount. The City and PDC shall determine the Investment Amount using such methods that are reasonable, ordinary and customary at the time of such calculation for an Urban Renewal Area "Window Plan" as described in the Tax Supervising and Conservation Commission's 2005-2006 Annual Report. In addition, the City and PDC may consider then-prevailing factors for the issuance of bonded debt by the City. PDC will notify OHSU in writing of the Investment Amount and the methodology used to calculate the Investment Amount within thirty (30) days of PDC's calculation of the Investment Amount. The Investment Amount shall be paid by PDC to OHSU within thirty (30) days of PDC's notification to OHSU of the Investment Amount.

6.8.3.5 PDC's obligation to pay the Investment Amount in connection with the development of a taxable Hotel, but not with respect to any other OHSU Taxable Project, will be deferred until such time as NMI's Gap Payment obligations have terminated in accordance with Section 18.2.8.2. Notwithstanding anything to the contrary contained in this Section 6.8.3, between the first January 15th following the first year that the completed Hotel is fully included on a tax roll that has been certified by the tax assessor and the date on which NMI's Gap Payment obligations have terminated, the Investment Amount shall be adjusted annually by an amount that reflects the percent change in the

assessed value of the Hotel; provided, however, in no event shall the Investment Amount be reduced unless such reduction results from a change in applicable tax laws.

6.8.3.6 If OHSU takes any action that results in the permanent closure of the Phase 1 Parking Garage to the public, then OHSU will reimburse a portion of the total Investment Amount to PDC in an amount equal to the Investment Amount multiplied by a fraction, the numerator of which is thirty (30) minus the actual number of years that the Phase 1 Parking Garage was available for public use and the denominator of which is thirty (30) years. As used in this paragraph, the term "public" shall include, without limitation, use by any or all of OHSU, its subdivisions and affiliates, and each of their employees, patients, customers, clients, invitees, licensees and other patrons. Notwithstanding the foregoing, the exercise by OHSU of any rights under the Affordable Housing Parking Agreement between OHSU and PDC dated September 19, 2005 (the "Parking Agreement") shall not trigger the reimbursement contemplated by this paragraph.

6.8.3.7 If OHSU consummates a sale of the Phase 1 Parking Garage to a third party, OHSU shall reimburse a portion of the total Investment Amount to PDC from any profit that OHSU receives from such transaction based on the pro-rata share of Phase 1 Parking Garage construction costs funded by the Investment Amount. Any sums reimbursed will be used to fund other public infrastructure investments in the UR Area as mutually agreed upon by OHSU and PDC. If OHSU enters into a financing transaction and the interest rate payable by OHSU on the sums financed is less than PDC's cost of funds for the Investment Amount, then OHSU shall pay to PDC the difference between OHSU's interest rate and PDC's cost of funds on the declining balance of the Investment Amount each year. There shall be no other sums owing from OHSU to PDC in the event of a financing transaction.

6.8.3.7.1 As used in this Section 6.8.3, "sale" means the transfer of title to the Phase 1 Parking Garage by OHSU to an unrelated third party with no residual rights in favor of OHSU to reacquire ownership following such conveyance. A sale shall not include a sale/leaseback or a financing transaction. As used in this Section 6.8.3, a "sale/leaseback" means the transfer of title to the Phase 1 Parking Garage by OHSU to an unrelated third party with OHSU retaining possessory rights to the Phase 1 Parking Garage and a right to reacquire the Phase 1 Parking Garage at the end of the lease term for less than fair market value. No profit shall be owing from OHSU to PDC in the event of a sale/leaseback. As used in this Section 6.8.3, a "financing transaction" means a transaction to finance all or a part of the construction costs of the Phase 1 Parking Garage in which OHSU retains title to the Phase 1 Parking Garage but allows a third party to encumber the Phase 1 Parking Garage with a lien securing a sum certain, such sum not to exceed the total construction costs of the Phase 1 Parking Garage.

6.8.3.7.2 For purposes of this Section 6.8.3, "profit" means the amount by which the proceeds from a sale of the Phase 1 Parking Garage by OHSU exceed the cost basis of the Phase 1 Parking Garage upon its completion. The cost basis of the Phase 1 Parking Garage shall be increased by the amount of any annual negative net cash flow on

account of OHSU's ownership and operation of the Phase 1 Parking Garage and decreased by any annual cash profit received by OHSU on account of its ownership and operation of the Phase 1 Parking Garage. The amount paid by PDC for Structural Enhancements shall not be included in such cost basis.

6.8.3.8 If an OHSU Taxable Project is assessed and placed on the tax rolls and later removed from the tax rolls as the result of an action or omission by OHSU or OHSU's successors or transferees, then OHSU shall reimburse PDC the full Investment Amount associated with such OHSU Taxable Project less the tax increment financing that could be leveraged with fifty percent (50%) of the Tax Increment Revenue actually generated by such project prior to its removal from the tax rolls.

6.8.3.9 Subject to the foregoing provisions of this Section 6.8.3, the Tax Increment Revenue actually generated by an OHSU Taxable Project may be used by PDC in its sole discretion. Nothing in this Section 6.8.3 shall relieve or offset any of PDC's or OHSU's other obligations under this Agreement. Any and all disputes under this Section 6.8.3 shall be resolved in accordance with Section 19.

25. Section 6.11 of the DA is hereby amended as follows:

6.11 Phase 1 Affordable Apartments

6.11.1 Obligation to Construct

~~NMI~~ Pursuant to that certain Agreement of Sale and Joint Escrow Instructions dated December 23, 2005 (the "NMI/OHSU Block 33 Agreement"), NMI has sold its interest in Block 33 to OHSU. Pursuant to the Parking Agreement, OHSU has agreed to provide parking stalls for Affordable Apartments in a Parking Garage to be constructed on Block 33 (the "Block 33 Parking Garage"). Pursuant to the Funding Proposal, NMI has agreed to sell its interest in the air rights above Block 33 to PDC for \$3 million cash and to sell Block 49 to PDC for \$5 million. PDC, or its property transferee(s), shall be obligated to construct, or to cause to be constructed, the Phase 1 Affordable Apartments above ~~at the Block 33~~ Parking Garage and/or on Block 49 in accordance with the Schedule, and subject to the terms of this Agreement.

6.11.2 Block 33

6.11.2.1 PDC will buy NMI's position in Block 33 pursuant to a separate purchase and sale agreement (the "Block 33 Purchase Agreement"). The Block 33 Purchase Agreement shall include, without limitation, the following terms: (a) \$3 million cash sale with no credits against the purchase price; (b) closing to occur by November 30, 2006; (c) the closing of the sale, or the failure to close solely due to PDC's default under the Block 33 Purchase Agreement, will satisfy in full NMI's obligation under Sections 9.17.2 and 10.1 below to construct Affordable Apartments in the Project Area in Phases 1, 2 and 3; (d) PDC will cause development of only Affordable Housing above the

Phase 1 OHSU Parking Garage on Block 33; (e) PDC will assume and pay, when due, the supplemental payment required to be paid to OHSU under the Block 33 Purchase and Sale Agreement; and (f) NMI will transfer 135,000 square feet of FAR to Block 33 at no additional cost; provided, however, such FAR may only be used in connection with development on Block 33.

6.11.2.2 Notwithstanding the transfer of NMI's position in Block 33 to PDC, NMI may submit a proposal to any request for proposal ("RFP") for development on Block 33 on the same terms as any other prospective developer.

6.11.2.3 Neither the sale of NMI's position in Block 33 to PDC nor any other provision of this Section 6.11.2 will diminish OHSU's rights nor increase OHSU's obligations under this Agreement or the OHSU/NMI Block 33 Agreement, including without limitation, any rights OHSU may possess relating to air rights development under the OHSU/NMI Block 33 Agreement. Upon the transfer of NMI's position in Block 33 to PDC, PDC will be bound by all of the surviving terms of the OHSU/NMI Block 33 Agreement.

6.11.3 Block 49

6.11.3.1 PDC will buy Block 49 from NMI pursuant to a separate purchase and sale agreement (the "Block 49 Purchase Agreement"). The Block 49 Purchase Agreement shall include, without limitation, the following terms: (a) \$5 million cash sale with a credit against the purchase price for Tram and Streetcar LIDs assessed against the site in the amount of approximately \$495,000; (b) closing will occur after the vacation of Lowell Street; (c) NMI will bond around any infrastructure improvements that are not substantially complete at closing; and (d) upon closing of the sale, or the failure to close solely due to PDC's default under the Block 49 Purchase Agreement, NMI will receive a 275-unit credit against its Additional Affordable Obligation set forth in Section 9.23.1, which credit may be used by NMI anywhere in the UR Area. PDC will be responsible for any and all environmental clean up of the site; provided, however, PDC will have a forty-five (45) day due diligence period after the execution of the Block 49 Purchase Agreement to review and approve or disapprove of the environmental condition of the property. The parties will use diligent efforts to close the sale of Block 49 by November 30, 2006. However, the vacation of Lowell Street is a condition to closing of the sale.

6.11.3.2 In addition to the Block 49 Purchase Agreement, PDC and NMI will enter into a disposition and development agreement ("DDA") whereby PDC will make NMI, Williams & Dame Development, Inc. or an affiliate thereof the sole source owner and developer of the affordable housing project to be built on Block 49. The DDA will also provide that following construction of the affordable housing project on Block 49, NMI or an affiliated entity will own: (a) 50 parking spaces identified for office use and for use by the Old Spaghetti Factory; (b) all of the ground floor not associated with the residential components of the building; and (c) all office space (collectively, the "Non-Residential Components"). The Non-Residential Components of the project will be separate and distinct from the affordable housing components for financing and other

purposes. There will be no allocation of land costs associated with the transfer of the Non-Residential Components to NMI or its Affiliate. Each of the parking, retail and office components will consist of one or more condominium units, which units may be sold or otherwise transferred by the owner to third parties. In connection with the Eighth Amendment to this DA, NMI and PDC will enter into a Memorandum of Understanding that will set forth the agreements that will pertain while NMI and PDC negotiate the terms of the DDA. Execution of the DDA will be a condition to closing the Block 49 purchase and sale.

6.11.4 ~~6.11.2~~ Project Contingencies to Phase 1 Affordable Apartments

~~NMI~~PDC shall be obligated to cause the Phase 1 Affordable Apartments to be constructed in accordance with the Schedule if and as soon as the following Project Contingencies have been satisfied:

6.11.4.1 ~~6.11.2.1~~ The air and development rights for the Phase 1 Affordable Apartments shall be available to ~~NMI~~PDC above a Parking Garage or on Block 49.

6.11.4.2 ~~6.11.2.2~~ If the Affordable Apartments will be constructed on Block 33, OHSU, PDC and ~~NMI~~PDC shall have agreed on the Structural Enhancements (as defined in Section 10.5.1).

6.11.4.3 ~~6.11.2.3~~ The If the Affordable Apartments will be constructed on Block 33, the Parking Garage intended to support the Phase 1 Affordable Apartments shall be substantially complete, and PDC shall have agreed to finance the Structural Enhancement Costs (as defined in Section 10.5.2) of the Parking Garage pursuant to Section 10.5.

6.11.4.4 ~~6.11.2.4~~ ~~NMI~~PDC, or its property transferee, shall have obtained Final Approval of all City land use approvals and a foundation building permit necessary to authorize construction of the Phase 1 Affordable Apartments.

6.11.4.5 ~~6.11.2.5~~ ~~NMI and~~ PDC shall ~~each~~ have determined that the Phase 1 Affordable Apartments are financially feasible ~~pursuant to Section 10.2.~~

6.11.4.6 ~~6.11.2.6~~ The City shall not have adopted an ordinance, regulation, rule or requirement, after the Basic Contingencies have been satisfied or waived but before the Project Contingencies in Sections 6.11.4.1 through 6.11.4.5 are satisfied or waived, other than City wide changes in tax abatement programs or system development charges, that would materially and adversely affect the Phase 1 Affordable Apartments.

26. Section 6.12 of the DA is hereby deleted in its entirety.

6.12 ~~Hotel~~ [Intentionally Omitted]

~~6.12.1~~ Design and Construction

~~OHSU will be responsible for causing the Hotel to be designed, financed and constructed subject to the terms of this Agreement. OHSU shall begin and complete construction of the Hotel in accordance with the Schedule without financial investment by PDC.~~

6.12.2 Project Contingencies to Construction of the Hotel

~~OHSU shall be obligated to cause the Hotel to be constructed in accordance with the Schedule and as soon as the following Project Contingencies have been satisfied:~~

~~6.12.2.1 — A market feasibility study, performed in accordance with the hotel industry's standards has determined that the Hotel is feasible.~~

~~6.12.2.2 — OHSU shall have entered into a hotel management agreement with an experienced hotel management company for the management of the Hotel.~~

~~6.12.2.3 — OHSU shall have obtained sufficient financing (equity, construction debt and permanent debt) on terms acceptable to OHSU in its sole discretion to provide funds for the construction and ownership of the Hotel.~~

~~6.12.2.4 — OHSU shall have received Final Approval of all land use approvals necessary for the construction of the Hotel, and OHSU has received a building permit for the Hotel's foundation.~~

~~6.12.2.5 — The City shall not have adopted an ordinance, regulation, rule or requirement, after the Basic Contingencies have been satisfied or waived but before the Project Contingencies in Sections 6.12.2.1 through 6.12.2.4 are satisfied or waived, other than City-wide changes in tax abatement programs or system development charges, that would materially and adversely affect the Hotel.~~

27. The following new Section 6.19 is hereby added to the DA immediately following Section 6.18:

6.19 Lowell Streetcar Extension

6.19.1 Design and Construction

PDOT has entered into an agreement with PSI pursuant to which PSI has agreed to manage the design, permitting and construction of the Lowell Streetcar Extension according to the Schedule. The design and construction of the Lowell Streetcar Extension will be coordinated with and facilitate the development of the surrounding Blocks.

6.19.2 Funding

The Lowell Streetcar Extension will be funded according to the Funding and Financing Plan. Each Party that is identified in the Funding and Financing Plan as a source of funds for the Lowell Streetcar Extension hereby agrees to provide the

amount of funds indicated for that Party in the Funding and Financing Plan, as and when required by the Funding and Financing Plan. In accordance with Section 3.4, the LID formation documents for the Lowell Streetcar Extension shall include a provision that allows for the obligation to pay the LID assessments and the lien securing such obligation to be allocated to a different property within the LID, subject to property value underwriting, environmental assessments, title review and other terms reasonably acceptable to the City.

6.19.3 Project Contingencies to Commencing Construction of the Lowell Streetcar Extension

There are no Project Contingencies to construction of the Lowell Streetcar Extension; provided, however, the City shall not have adopted an ordinance, regulation, rule or requirement, other than City-wide changes in tax abatement programs or system development charges, that would materially and adversely affect the Lowell Streetcar Extension.

28. Sections 7.4, 7.5, 7.6 and 7.7 of the DA are hereby deleted in their entirety and replaced with the following:

7.4 Public Phase 2 Contingent Projects

PDC shall not be obligated to undertake or fund a Phase 2 Contingent Project unless and until there is a Scheduled Commitment pursuant to Section 7.3 for that Phase 2 Contingent Project that is conditioned on performance by PDC. PDC is not obligated to fund or undertake a Phase 2 Contingent Project unless PDC reasonably forecasts sufficient incremental tax revenue, LIDs or other funding sources so as to enable PDC to meet its responsibilities for that Phase 2 Contingent Project.

7.5 Notice to Proceed

Upon the delivery by NMI or OHSU of a notice to PDC that NMI or OHSU is ready to proceed with construction of a Phase 2 Contingent Project for which there is a Scheduled Commitment, then PDC shall commence and diligently complete its Phase 2 Contingent Project(s) that is (are) a precondition to NMI's or OHSU's Phase 2 Contingent Project pursuant to Section 7.3 but subject to Section 7.4.

7.6 Deferred Public Phase 2 Contingent Projects

In the event that a Phase 2 Contingent Project involving public infrastructure is not required to be built within Phase 2, either because the pre-conditions to the obligation to build or fund that Contingent Project have not been satisfied or the Parties have agreed otherwise, then that Phase 2 Contingent Project shall become a Phase 3 Contingent Project.

7.7 No Gap Payment

The provisions of Section 18.2 do not apply to Phase 2 Contingent Projects.

All Public Projects have been accelerated into Phase 1.

29. Sections 9.17.2 and 9.17.3 of the DA are hereby amended as follows:

9.17.2 Required Affordable Housing

Subject to the provisions of this Agreement, **including without limitation, Section 6.11.2.1,** NMI shall develop not less than 400 Affordable Apartments and 30 Affordable Condominiums in the Project Area. Such development shall consist of the following residential units:

Required Affordable Housing			
Income Level Served (% of Median Family Income)	Apartments	Condominiums	Total
0-50%	167		167
51-60%	107		107
61-80%	60		60
81-100%	66	13	79
101-120%		17	17
	400	30	430
			430
Total Market Rate and Affordable Production			2660

9.17.3 Additional Housing Units

9.17.3.1 Subject to the provisions of this Agreement, **including without limitation, Section 6.11.3.1,** if NMI develops more than 2230 but fewer than 3000

Market Rate Housing units in the Project Area, or outside the Project Area but inside the UR Area (the excess over the maximum number being "Additional Residential Units"), then NMI shall develop at least 36% of the Additional Residential Units as Affordable Apartments, and at least 20% of the added Affordable Apartments shall be affordable to households with incomes of less than 30% of MFI.

30. Section 9.19 of the DA is hereby revised as follows:

9.19 Transportation Partnership Plan

PDC and PDOT may propose a Transportation Partnership Plan and Implementation Strategy to address future transportation issues within the South Waterfront Plan Area or a portion of that area. This Transportation Partnership Plan and Implementation Strategy will be a cooperative effort between PDC, PDOT and property owners within the area of the Plan. NMI and OHSU, for themselves and their respective successors-in-interest, vendees, grantees and transferees, agree to assist PDC and PDOT with the development of this Transportation Partnership Plan and Implementation Strategy and to cooperate with PDC and PDOT in working toward an efficient transportation system for the area covered by the Transportation Partnership Plan and Implementation Strategy. **In lieu of a Transportation Partnership Plan and Implementation Strategy, the Parties may form a transportation management association to address current and future transportation issues within the South Waterfront Plan Area or a portion of that area.**

31. Section 9.24 of the DA is hereby deleted in its entirety.

~~9.24 — PDC Control of Land to Satisfy NMI Additional Affordable Obligation.~~

~~NMI intends to acquire an additional property comprised of approximately 2.6 acres within the South Waterfront Plan Area for residential development. NMI agrees to negotiate in good faith to sell PDC a minimum of 40,000 square feet of the property for the purposes of developing affordable housing. If a sale to PDC is completed, and if NMI or its assigns develops market rate housing on the portion of the property NMI retains, then NMI shall have no further obligation to provide affordable housing on this 2.6 acre site. Before consummation of any land sale agreement, PDC and NMI will negotiate and agree to the number of units that will count toward NMI's Additional Affordable Obligation.~~

32. Section 10.2.3 of the DA is hereby amended as follows:

10.2.3 NMI Right of First Offer to Develop Affordable Apartments on Parking Garage Air Space

If PDC has acquired NMI's rights pursuant to Section 10.2.1.2 above, and PDC thereafter determines to offer those rights for development of Affordable Apartments, then PDC shall first notify NMI of PDC's determinations, including any financing terms it intends to make available to a developer to encourage Affordable Apartment development, and NMI shall have a thirty (30) day period in which to make an offer to develop Affordable Apartments prior to PDC offering the development opportunity to any other person or entity. If NMI makes an offer to

develop the Affordable Apartments during the 30 days allowed, PDC and NMI shall engage in exclusive good faith negotiations for ninety (90) days after PDC receives NMI's offer. If NMI and PDC have not entered into an agreement for development of Affordable Apartments during the 90-day exclusive negotiation period, subject only to NMI entity formal approval or PDC Board approval, then either of these Parties may terminate the negotiations by giving notice to the other. If the negotiations are so terminated, PDC may thereafter solicit development offers for the Parking Garage air space from any other persons or entity. Notwithstanding the foregoing, NMI shall have the right to participate in any RFP and/or RFQ process with respect to the development of the Affordable Apartments on the Parking Garage. **Notwithstanding the foregoing, if PDC acquires Block 49 as anticipated by Section 6.11.3 and Block 33 as anticipated by Section 6.11.2, then, on the business day immediately following the closing of Block 49 or Block 33, whichever is later, this Section 10.2.3 shall be terminated and of no further force or effect.**

33. Section 11.2.9 of the DA is hereby deleted in its entirety.

~~11.2.9 PDC and OHSU agree to work collaboratively, and with others, for the development of facilities for Bioscience companies in the Project Area. Such collaboration does not obligate either PDC or OHSU to specific financial commitments.~~

34. Sections 11.2.10 through 11.2.14 are renumbered as Sections 11.2.9 through 11.2.13 and the following new Section 11.2.14 is hereby added to the DA:

11.2.14 In accordance with the Funding and Financing Plan and in furtherance of the Oregon Opportunity Bioscience Development Strategy, PDC agrees to provide \$3.5 million for Bioscience industry development in the UR Area. These funds will be available to, but not exclusively dedicated to, joint PDC/OHSU projects. Funds will be available annually in the amount of \$700,000 over a five year period as follows:

11.2.14.1 Recruiting new Bioscience companies into the UR Area will create a demand for additional building space in the UR Area, resulting in increased property development. Therefore, \$1.5 million shall be allocated to any, all, or any combination of the following activities to encourage the location of Bioscience industry facilities in the UR Area as agreed upon by OHSU and PDC in accordance with Section 11.2.14.3:

(a) Reinstitution of a Bioscience Business Development Manager jointly funded by OHSU and PDC at OHSU focusing on Bioscience industry recruitment and development in the Project Area as contemplated by Section 11.2.4;

(b) Funding PDC-OHSU partnerships to facilitate and encourage the creation of start-up Bioscience Companies and their location in the UR Area based on OHSU research;

(c) Funding Bioscience activities by PDC and OHSU staff that will recruit Bioscience companies to locate within the UR Area and therefore stimulate the development of new facilities to accommodate those companies; and

(d) Other programs or limitations on Sections 11.2.14.1(a) through (c) as mutually agreed upon by PDC and OHSU.

11.2.14.2 \$2 million shall be invested in tenant improvements within the UR Area which augment and enhance Bioscience research facilities for Bioscience Companies as agreed upon by OHSU and PDC. Consistent with this Section 11, OHSU and PDC intend these funds to be used to encourage additional private and public Bioscience business growth in the UR Area.

11.2.14.3 The specific allocation of the Bioscience funds described in this Section 11.2.14 will be set out in a separate agreement between PDC and OHSU (the "Bioscience Funding Agreement"). Funds that are not utilized in any one calendar year will carry over into future years until spent. The Bioscience Funding Agreement will contain a commercially reasonable dispute resolution process to address the parties inability to agree upon the use of such funds, which provisions shall be similar to the oversight committee described in Section 6.2.2.7, with final binding decisions to be made by a three-person committee consisting of: (i) the PDC Executive Director; (ii) the OHSU Vice President of Research; and (iii) the then-current Chairman of the Oregon Bio-Science Association or such third party jointly selected by OHSU and PDC. If PDC and OHSU cannot agree upon a third party, then the then-current Chairman of the Oregon Bio-Science Association shall select the third member of the committee. OHSU and PDC will work diligently and in good faith to negotiate and execute the Bioscience Funding Agreement by October 31, 2006.

35. Section 13.2.2 of the DA is hereby revised as follows:

13.2.2 Transfers by RCI

Transfers by RCI to OHSU or OHSU Affiliates and transfers by RCI to NMI or NMI Affiliates may occur without the prior consent of PDC. In the event RCI is dissolved, ~~all the~~ obligations of RCI under this Agreement shall be assumed by NMI and OHSU in proportion to their respective ownership interests in RCI, each as a several obligor to ~~PDC with respect to the RCI Land that is distributed or otherwise transferred to NMI and by OHSU with respect to the RCI Land that is distributed or otherwise transferred to~~ OHSU.

36. The following new Sections 13.3.5 and 13.3.6 are hereby added to the DA immediately following Section 13.3.4:

13.3.5 Notwithstanding anything to the contrary, PDC has consented to the distribution by RCI of Block 23 to NMI. Upon the recordation of a deed consummating such transfer, Block 23 shall be exclusively NMI Land for purposes of this Agreement.

13.3.6 Notwithstanding anything to the contrary contained herein, PDC has consented to the transfer of Block 31 from NMI to OHSU. Upon the recordation of a deed consummating such transfer, Block 31 shall be exclusively an OHSU Block for purposes of this Agreement.

37. Section 18.2 of the DA is hereby revised as follows:

18.2 For NMI, RCI, or Block 39 Default in Failing to Complete Construction of Phase 1 Buildings by Late Completion Date **Generate Target Tax Incremental Revenue**

18.2.1 In General

PDC will obtain a portion of the funds to be invested in Phase 1 of the Project in the form of proceeds of debt borrowings incurred by the City that will be repaid by incremental property taxes collected pursuant to ORS 457.420, *et seq.*, generated by certain of the Phase 1 Buildings to be built in the Project Area. ~~To the extent that all Project Contingencies which are conditions precedent to the construction of a Phase 1 Building in the Project Area have been satisfied or waived, but that Phase 1 Building is not substantially complete by the applicable Late Completion Date as extended by an Unavoidable Delay; then, the owner of the Building site in the NMI Land~~ These Buildings are listed on Exhibit V and are collectively referred to herein as the "Exhibit V Properties." Unless a Gap Obligation has been terminated pursuant to Section 18.2.8.1 or 18.2.8.2, and subject to satisfaction of Project Contingencies for Tower 5 and Tower 6 of the Phase 1 Condominiums, if the Exhibit V Properties and the Additional Qualifying Projects do not generate the Target Tax Incremental Revenue shown on Exhibit V for any tax year, then NMI and/or its applicable transferees shall be required to make payments in lieu of the incremental property taxes which would have been generated by the timely construction of such Building. Except for an Unavoidable Delay, such payment shall be made from the date on which Tax Increment Revenues would have been due for a Building completed by the Late Completion Date and continue until that Building is actually completed and taxable on the Multnomah County tax roll equal to the difference between the Target Tax Incremental Revenue and the Tax Increment Revenue actually generated in the applicable tax year. In the event that construction of a Phase 1 Contingent Project an Exhibit V Property has not commenced due to Unavoidable Delay, then the payments shall commence upon the Late Completion Date extended by ~~the~~ any applicable period of Unavoidable Delay. ~~In addition, in the event this Agreement is terminated pursuant to Section 5.5, then the owners of the Building sites in the NMI Land shall be responsible to make certain payments in lieu of incremental property taxes.~~ The following subsections implement this general provision.

18.2.2 TIF Public Investment

18.2.2.1 The expected public investment to be financed by debt and to be repaid by incremental property taxes is set forth in some detail in the "Tax Increment Financing" column shown on attached Exhibit U (the "Public Investment I-1 (the "TIF Public Investment"). NMI has agreed to make Gap Payments, if owing in accordance with this Section 18.2, to secure \$65.5 million of the TIF Public Investment (the "Gap Obligation")."). It is possible that the Contingent Projects TIF Public Investment in Exhibit U ~~may receive~~ I-1 may be reduced by grants or other forms of financing from sources other than incremental property taxes, such as federal or state funds ("Grants") in substitution of funding from PDC as set forth in the Funding and Financing Plan. ~~It is also possible that PDC's funding obligations may be reduced from the amounts shown in Exhibit U by an amendment to the Schedule that~~

delays a Contingent Project described in Exhibit U to a Phase later than the Phase in which it was originally Scheduled ("Other Funds"). Finally Also, since the amount on Exhibit UI-1 is an estimate, it is possible that the actual tax increment financing ("TIF") amount expended by PDC for the items shown on Exhibit UI-1 may be less than the TIF estimate, with the difference being the "Cost Savings." For purposes of this Section 18.2, the Public Investment will be initially determined as of December 31, 2003 and will be equal to: the amount shown on attached Exhibit U decreased by Grants and Other Funds received prior to that date. The Public Investment will also The TIF Public Investment will be adjusted subsequent to that date the effective date of the Eighth Amendment to this Agreement by subsequent Grants and Other Funds. PDC shall promptly notify the other Parties in the event Grants or Other Funds are received or Cost Savings are realized. Any Cost Savings will be applied to accelerate the Public Projects in the priority order set forth in the Funding and Financing Plan any shortfall in the Public Projects and if there exists more than one Public Project with a shortfall at the time Cost Savings are identified, the Parties will agree to the priority for investment of the Cost Savings. If excess Cost Savings remain after the Public Projects are fully funded, the excess Cost Savings may be spent on any projects in the UR Area as PDC may determine. If excess Cost Savings remain after the Public Projects are fully funded, the remaining Gap Obligation will be reduced by the percentage that is derived from a fraction, the numerator of which is the amount of Cost Savings for projects backed by a Gap Obligation and the denominator of which is \$65.5 million.

18.2.2.2- The Public Investment will be expended over the early years of Phase 1; however, incremental property taxes to pay the debt incurred for the Contingent Projects will not be received until later in Phase 1. Accordingly, the Public Investment amount shall be adjusted as follows: the Public Investment amount shall be increased at the rate of 6.93% per year for a period of three (3) years from the Effective Date at a non-compounding rate, and the resultant amount shall be the Adjusted Public Investment.

18.2.2.3- In the event of a termination of this Agreement pursuant to Section 5.5, then the Public Investment shall be limited to amounts expended by PDC for the Phase 1 Street Improvement Project for hard and soft construction costs, and not for PDC's overhead, determined as of the end of the Phase 1 Street Improvement Project. In this case, the Adjusted Public Investment shall be equal to the Public Investment increased by 6.93% per year, non-compounding, for half the number of years between the commencement of and the substantial completion of the Phase 1 Street Improvement Project. 18.2.2.4- NMI shall be entitled to review PDC's books and records so as to review the amount of the Adjusted TIF Public Investment actually spent on the Public Projects. In the event PDC and NMI disagree about the accurate amount of the Adjusted TIF Public Investment actually spent on the Public Projects, the issue shall be resolved by Dispute Resolution.

18.2.3_ Tax Increment Revenue

Incremental property taxes from taxable development in the UR Area (including the Project Area) will be dedicated to pay the debt incurred to fund Contingent UR Area Projects, including the Public Projects. The Tax Increment Revenue for any tax year is equal to:— the actual annual ad valorem taxes collected and divided on account of ORS 457.420, et

~~seq., from the Project Area, and from the taxable land and taxable Buildings (or taxable portions thereof) constructed by NMI, RCI, Block 39 or OHSU or their respective Affiliates or transferees on land located within the South Waterfront Plan Area but outside of the Project Area, all as certified by the Multnomah County Assessor.~~ shown on the tax statements of the Exhibit V Properties minus the baseline identified in Exhibit V for such Exhibit V Properties. At any time, NMI may notify PDC that one or more Additional Qualifying Projects are to be added to Exhibit V. Upon such notice, PDC will confirm the qualifications of the Additional Qualifying Projects, and thereafter include the Tax Increment Revenue from the Additional Qualifying Projects in the annual calculation of Tax Increment Revenue, which will be calculated by PDC using the same methodologies as used to calculate Tax Increment Revenue for Exhibit V Properties.

18.2.4 Target Tax IncrementIncremental Revenue

The Funding and Financing Plan is predicated on sufficient Tax Increment Revenue from the Project Area Exhibit V Properties and development in the Project Area the Additional Qualifying Projects being received to pay support the debt service on the Adjusted TIF Public Investment. The annual (by tax year) ~~targeted amounts of~~ Target Tax Increment Revenue are set forth on attached Exhibit V (the "Target Tax Increment Revenue"). The Target Tax Increment Revenue is shown on Exhibit V for each of NMI's Contingent Projects in Phase 1 that are taxable Incremental Revenue for each of the Exhibit V Properties (each amount being a "Contingent Project Target") and the cumulative Target Tax ~~Increment~~ Incremental Revenue for each tax year are shown on Exhibit V. The identification of one or more particular Blocks on Exhibit V is not a commitment as to the location of a particular Contingent Project, which may be located as provided in this Agreement.

18.2.5 Gap Payment

The provisions of this Section 18.2.5 apply until ~~the earlier of the termination referred to in Section 18.2.8 or until there is~~ 18.2.8.2. In the event of a Transfer pursuant to Section 18.2.6, and then, the provisions of Section 18.2.6 applies to Transferred properties, and apply to the extent they are consistent with this Section 18.2.5 applies to properties not Transferred. 18.2.5. In the event that for any tax year, the Tax Increment Revenue received does not equal or exceed the Target Tax ~~Increment~~ Incremental Revenue, then a Gap Amount shall exist equal to the Target Tax ~~Increment~~ Incremental Revenue less the cumulative Tax Increment Revenue, all as shown for all Exhibit V Properties in each year on Exhibit V. On or before December 15th of each tax year, PDC shall compute the Gap Amount and give written notice of the Gap Amount to NMI and Block 39, and NMI and Block 39 (but not OHSU) to the extent of each entity's ownership of taxable property and in the relative percentages set forth below, shall pay the Gap Amount or its applicable transferee, and, subject to Section 18.2.6, NMI or its transferee, as applicable, shall make a Gap Payment to PDC within sixty (60) days of receipt of notice of the computation of the Gap Amount (a "Gap Payment"); provided that NMI and Block 39 shall not be liable to pay Gap Payments on account of OHSU Contingent Projects. NMI and Block 39 shall be severally responsible for a Gap Payment in an amount equal to the Gap Payment multiplied by a fraction the numerator of which is the total Target Tax Increment Revenue assigned by Exhibit V to land owned by NMI or Block 39, and the

denominator of which is the total Target Tax Increment Revenue assigned by Exhibit V to land owned by both NMI and Block 39. Amounts due pursuant to this Section 18.2.5 shall be a lien upon the respective property of NMI or Block 39 its transferee, as applicable, in favor of PDC, but the lien shall automatically subordinate to the lien of a construction mortgage(s) incurred to provide funds for the Contingent Project and any permanent mortgage(s) providing funds to pay off that construction mortgage or to any subsequent refinancings ("Mortgages") securing any Construction Financing; provided that the total Mortgages Construction Financing prior to PDC's lien shall not exceed 80% of the fair market value of ~~that~~ the applicable Contingent Project. The obligation to make a Gap Payment is excused during and to the extent of any Unavoidable Delay. The obligation to make Gap Payments does not apply to Contingent Projects in Phases 2 and 3 that are not Exhibit V Properties.

18.2.6_ Allocations Upon Transfers

18.2.6.1 In the event that RCI, NMI, Block 39 or OHSU proposes to transfer a parcel or Block in the Project Area to a third party, even if NMI or some or all of its members are owners of the third party (a "Transfer"), then the transferor shall proceed in accordance with Section 18.2.6.2, in addition to satisfying the requirements of Section 13. A Transfer shall not include a conveyance by RCI to OHSU or NMI.

18.2.6.2 Upon a Transfer, the transferor shall: give PDC written notice of the proposed transferee, identify the specific Contingent Project to be built upon the parcel or Block to be transferred, assign the amount of Contingent Project Target and Completion RMV as shown in Exhibit V to that parcel or Block, confirm the Late Construction Completion Date for that Contingent Project, and assign a Gap Credit Amount, if any, to that parcel or Block and submit to PDC a written agreement to be recorded against that parcel or Block Gap Obligation Agreement that sets forth the above information ~~(the "Gap Obligation Agreement")~~. PDC shall have the right to review and approve the Gap Obligation Agreement and will approve the Gap Obligation Agreement if it is consistent with this Section 18.2 and Exhibit V. Thereafter, the transferor shall not Transfer the parcel or Block without the transferee executing and recording the Gap Obligation Agreement. Upon the recording of a Gap Obligation Agreement, the transferor shall be relieved of its responsibility for that portion of any future Gap Payment based on the Contingent Project Target referred to in that Gap Obligation Agreement and PDC shall, thereafter, look only to the transferee and its Contingent Project for payment of that portion of a Gap Payment attributable to the Contingent Project Target referred to in that Gap Obligation Agreement. Amounts due pursuant to a Gap Obligation Agreement If PDC determines pursuant to Section 18.2.5 that a Gap Amount exists in any year, and that all or a portion of the Gap Amount is attributable to a Contingent Project that is subject to a Gap Obligation Agreement, and that the owner of such Contingent Project has not been relieved of liability for a Gap Payment on account of that Contingent Project or under a Gap Obligation Agreement applicable to that Contingent Project, then, on or before December 15th of each tax year, PDC shall give written notice of such attributed Gap Amount to the transferee ("Transferee Gap Amount"), and the transferee shall pay the Transferee Gap Amount to PDC within sixty (60) days of the computation of the Transferee Gap Amount (a "Transferee Gap Payment"). Any Transferee Gap Amounts shall be a lien upon the parcel or Block so conveyed, but that lien shall be automatically subordinate to the lien of a

construction mortgage incurred to provide funds for that Contingent Project and any permanent mortgage(s) providing funds to pay off that construction mortgage or to any subsequent refinancings ("Mortgages") securing any Construction Financing; provided that the total of Mortgages Construction Financing prior to PDC's lien shall not exceed 80% of fair market value of that Contingent Project. the applicable Contingent Project. PDC agrees that the lien of the Gap Obligation Agreement will be released from individual residential condominium units at the time of closing of the transfer of such units to initial owners.

18.2.6.3 In order for PDC to retain reasonable security for a Gap Obligation Agreement after the release of individual residential condominium units from the lien of a Gap Obligation Agreement, NMI agrees that it will not encumber Block 23 with liens other than the liens of the Portland Streetcar (Riverplace to Gibbs) LID, the Tram LID, the Portland Streetcar (Gibbs to Lowell) LID, the lien(s) of the SSP, the lien for the NMI Funding Obligation, or any other lien approved by the City in accordance with the SSP, until such time as the Gap Obligation is terminated pursuant to Section 18.2.8.1 for all of the Exhibit V Properties or pursuant to Section 18.2.8.2. If a Gap Payment is owing pursuant to a Gap Obligation Agreement, and if the Gap Payment is not made when due, then PDC, not less than ten (10) days after notice to NMI of the Gap Payment default, but without further approval from NMI, may place a lien on Block 23 in the amount of the Gap Payment then due, which lien will include a provision that any future Gap Payments due, but unpaid pursuant to that certain Gap Obligation Agreement will be added to the lien value as accrued. The presence of a lien on Block 23 placed pursuant to this subsection 18.2.6.3 will not prevent PDC from placing additional liens on Block 23 in the case of additional defaults in payment of a Gap Payment due under any other Gap Obligation Agreement. Notwithstanding anything to the contrary contained in this Section 18.2 or in this Agreement, this Section 18.2.6.3 shall no longer apply if NMI sells or transfers Block 23 to an entity other than NMI for taxable development purposes. In the event of such sale or transfer, this Section 18.2.6.3 shall be deemed inapplicable upon the earlier of (a) the date on which the first permit for construction is received and (b) the close of construction financing for the taxable development project. The right of PDC to place or approve any lien on Block 23 pursuant to this Section 18.2.6.3 is subject to the prior approval of the City.

18.2.6.4 Upon the recording of a Gap Obligation Agreement, the amount of the referenced Contingent Project Target ~~Tax Increment Revenue~~ shall be subtracted from the transferor's ~~allocated~~ Target Tax Incremental Revenue set forth in Section 18.2.5, the property described in the Gap Obligation Agreement shall be released from the lien referred to in Section 18.2.5, and the amounts secured by the lien referred to in Section 18.2.5 shall be reduced by the Contingent Project Target ~~Tax Increment Revenue~~ referred to in the Gap Obligation Agreement.

18.2.7 Gap Credit

18.2.7.1 In any tax year Tax Increment Revenue is in excess of the Target Tax Incremental Revenue (regardless of whether or not Transfers have occurred), then the excess shall be a Gap Credit. NMI ~~or Block 39~~ and its applicable transferees may apply a Gap Credit

to and thereby reduce any future Gap Payment obligation pursuant to ~~Section 18.2.5.~~ **Sections 18.2.5 and 18.2.6.** Gap Credits may be carried forward for any number of years without interest. However, Gap Credits are only available to offset Gap Payments on account of Phase 1 Contingent Projects **the Exhibit V Properties.** Gap Credits shall have no value after the Gap Payment obligations terminate pursuant to Section ~~18.2.8~~ **18.2.8.2** or Gap Credits equal the total cumulative Target Tax Incremental Revenue shown on Exhibit V for Phase 1. **A Gap Credits shall be allocated between NMI and Block 39 in the percentages set forth in Section 18.2.5. Credit in any year will be reduced by the amount of a Gap Payment amount in a prior year for which PDC did not receive a Gap Payment because of the operation of Section 18.2.8.1.**

~~18.2.7.2 Where a Transfer has occurred pursuant to Section 18.2.6, then the following provisions apply. If in any tax year a Contingent Project produces Tax Increment Revenue in excess of that Contingent Project's Contingent Project Target, then the excess shall be a Gap Credit. Gap Credits shall have no value after the Gap Payment obligations terminate pursuant to Section 18.2.8.~~

18.2.8 Termination of Gap Payment Obligation

18.2.8.1 In the case of a Transfer pursuant to Section 18.2.6, when a Contingent Project produces real market value (as defined in ORS 308.205) **RMV** and the real market value **RMV** set forth in the assessment roll pursuant to ORS 308.215 is equal to **or greater than** the amount shown **as the Completion RMV** for that Contingent Project in Exhibit V, then thereafter, the owner of that Contingent Project shall have no further liability for a Gap Payment on account of that Contingent Project or under a Gap Obligation Agreement applicable to that Contingent Project.

18.2.8.2 ~~The~~ **Notwithstanding anything to the contrary set forth herein, the** Parties have agreed that the repayment of the Adjusted **portion of the TIF** Public Investment **that is backed by a Gap Payment obligation** will be adequately assured when the total real market value of all taxable land (less the real market value of the land as of the Effective Date) and Buildings in the Project area **taxable, non abated RMV generated in the Project Area or by NMI or its Affiliates within the South Waterfront Plan Area, but outside the Project Area,** based on the assessment roll, pursuant to ORS 308.215, is equal to or greater than (i) \$294,900,000, if the Target RMV created pursuant to Section 18.7 is based on commercial valuation and (ii) \$288,200,000, if the Target RMV created pursuant to Section 18.7 is based on residential valuation. Notwithstanding the foregoing, when such total real market value **\$717,000,000. When such total RMV** is equal to or greater than \$257,900,000, **717,000,000,** then thereafter, no property owner in the Project Area **of an Exhibit V Property** shall have any further obligation under Section 18.2 or any Gap Obligation Agreement.

18.2.9 Tax Law Changes

In the event that the tax laws which affect Tax Increment Revenue are changed in a way that reduces Tax Increment Revenue, then the Target Tax Incremental

Revenue shall be similarly reduced to the extent that the City receives a replacement source of tax revenue that is legally available for payment of debt service obligations secured by Tax Increment Revenue. For example, if ad valorem property taxes are reduced by 50% but the City's lost Tax Increment Revenue is replaced only to the extent of 10% by the City's share of a new tax (such as a sales tax) or an increased existing tax (such as an income tax), then the Target Tax Incremental Revenue will be decreased by 10%. In the event that the tax laws which affect Tax Increment Revenue are changed in a way that reduces Tax Increment Revenue, but the City does not receive a replacement source of tax revenue, then the Target Tax Incremental Revenue shall not be changed.

18.2.10_ Collection of Gap Payments

~~Whenever~~When, pursuant to Section 18.2.5 and Section 18.2.6, PDC determines that NMI or ~~Block 39~~its transferees owes a Gap Payment, PDC will send the obligated Party an invoice showing the requested Gap Payment due and the data used in calculating the amount of the Gap Payment and the method of calculation used to determine the Gap Payment. Unless the Party receiving the Gap Payment invoice disputes the amount of the Gap Payment, the Party obligated for the Gap Payment will pay it within sixty (60) days of when due. Payments not paid within that period of time will bear interest at the Default Rate until paid. Any dispute over the amount of a Gap Payment shall be resolved through Dispute Resolution.

18.2.11_ Survival

~~In the event of a termination of this Agreement pursuant to Section 5.5, the provisions of this Section 18.2 shall survive and be fully enforceable, but only as to the Adjusted Public Investment referred to in Section 18.2.2.3: (Intentionally Deleted)~~

18.2.12_ PDC's Right to Acquire NMI or RCI Land

If NMI has failed to commence construction of an NMI Contingent Project within two years after the Late Completion Date for that Contingent Project as extended by any period of Unavoidable Delay, PDC shall have the option to acquire the parcel of NMI

Land upon which the Contingent Project is Scheduled to be built, upon payment of a purchase price determined pursuant to Section 9.9 above.

38. Section 20.7 of the DA is hereby revised as follows:

20.7 Notices

All notices given under this Agreement shall be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

PDC: The Portland Development Commission
~~1900 Southwest Fourth~~ **222 NW Fifth** Avenue, Suite 7000
Portland, Oregon 97204 **97209**
ATTN: Director of Development
(503) 823-3368 (Fax)
(503) 823-3355 (Telephone)

With a copy to:

The Portland Development Commission
~~1900 Southwest Fourth~~ **222 NW Fifth** Avenue, Suite 7000
Portland, Oregon 97204 **97209**
ATTN: General Counsel
(503) 823-3368 (Fax)
(503) 823-3200 (Telephone)

RCI: River Campus Investors, LLC
c/o Williams & Dame Development, Inc.
~~1325 NW Flanders Street~~
1308 NW Everett
Portland, Oregon 97209
Attn: Mr. Dike Dame
(503) 227-7996 (Fax)
(503) 227-6593 (Telephone)

With a copy to:

Ball Janik LLP
101 SW Main Street, Suite 1100
Portland, Oregon 97204
Attn: ~~Mr. Robert S. Ball~~ **Dina Alexander**
(503) 295-1058 (Fax)
(503) 228-2525 (Telephone)

NMI: North Macadam Investors, LLC
c/o Williams & Dame Development, Inc.
~~1325 NW Flanders Street~~
1308 NW Everett
Portland, Oregon 97209
Attn: Mr. Dike Dame
(503) 227-7996 (Fax)
(503) 227-6593 (Telephone)

With a copy to:

Ball Janik LLP
101 SW Main Street, Suite 1100
Portland, Oregon 97204
Attn: ~~Mr. Robert S. Ball~~ Dina Alexander
(503) 295-1058 (Fax)
(503) 228-2525 (Telephone)

Block 39: Block 39, LLC
c/o Williams & Dame Development, Inc.

1325 NW Flanders Street

1308 NW Everett
Portland, Oregon 97209
Attn: Mr. Dike Dame
(503) 227-7996 (Fax)
(503) 227-6593 (Telephone)

With a copy to:

= Ball Janik LLP
= 101 SW Main Street, Suite 1100
= Portland, Oregon 97204
= Attn: ~~Mr. Robert S. Ball~~ Dina Alexander
= (503) 295-1058 (Fax)
= (503) 228-2525 (Telephone)

OHSU: Oregon Health & Science University
General Counsel, L585
3181 SW Sam Jackson Park Road
Portland, Oregon 97201
Attn: ~~Mr. Mark Williams~~ Steven D. Stadum
(503) 494-8935 (Fax)
(503) 494-5222 (Telephone)

With a copy to:

= Ball Janik LLP
= 101 SW Main Street, Suite 1100
= Portland, Oregon 97204
= Attn: Mr. Stephen T. Janik
= (503) 295-1058 (Fax)
= (503) 228-2525 (Telephone)

~~Any notice delivered by personal delivery or overnight courier~~ Notices shall be deemed received by the addressee upon the earlier of actual delivery, and any notice delivered by certified mail shall be deemed received by the addressee on the third business day after deposit in the mail

delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

39. The following new Section 20.29 is hereby added to the DA immediately following Section 20.28:

20.29 Mortgage Protection

PDC agrees to give any mortgagee, beneficiary under a trust deed or other lender providing Construction Financing (each, a "Lender" and collectively, "Lenders") a copy of any notice of default served upon NMI or RCI, provided that prior to such notice PDC has been notified in writing by NMI or RCI of the addresses of such Lenders. PDC further agrees that if NMI or RCI shall have failed to cure a default hereunder within the time provided for in this Agreement, then the applicable Lender shall have an additional thirty (30) days within which to cure such default or if such default cannot be cured within that time, then such additional time as may be necessary if within such thirty (30) days such Lender has commenced and is diligently pursuing the cure of such default (including but not limited to commencement of foreclosure proceedings if necessary to effect such cure), in which event PDC shall forbear from exercising its remedies under this Agreement while such cure is being diligently pursued by a Lender.

40. Section 20.29 of the DA (Memorandum of Development Agreement) is hereby renumbered as Section 20.30.

41. Exhibits.

- A. Exhibit A is hereby deleted in its entirety and replaced with the Exhibit A attached hereto.
- B. Exhibit C is hereby revised as attached hereto.
- C. Exhibit H is hereby deleted in its entirety and replaced with the Exhibit H attached hereto.
- D. Exhibit I-1 is hereby deleted in its entirety and replaced with the Exhibit I attached hereto. Exhibit I-2 is hereby deleted in its entirety.
- E. Exhibit J is hereby deleted in its entirety and replaced with the Exhibit J attached hereto.
- F. Exhibit K is hereby deleted in its entirety and replaced with the Exhibit K-2 attached hereto.
- G. New Exhibits N and O are hereby added to the DA in the forms attached hereto.

- H. Exhibit V is hereby deleted in its entirety and replaced with the Exhibit V attached hereto.

42. General Provisions.


- 6.1 Effective Date. This Amendment is effective on the date first set forth above.
- 6.2 Complete Agreement. This Amendment is the complete agreement among the parties with respect to the subject covered by this Amendment, and it supersedes any prior agreements on the same subjects.
- 6.3 Counterparts. This Amendment may be executed in counterparts, each of which shall be deemed an original and when taken together shall constitute one and the same instrument, which instrument will become effective only upon execution of one or more counterparts by each of the parties hereto. Such execution may be evidenced by original or facsimile signatures.
- 6.4 Effect on DA. Except as modified by this Amendment, the DA remains in full force and effect.

*(Remainder of Page Intentionally Left Blank;
Signatures on Following Pages)*

IN WITNESS WHEREOF, the Parties have entered into this Amendment as of the day and year first set forth above.


PDC:

PORTLAND DEVELOPMENT COMMISSION

By: 
for Bruce A. Warner, Executive Director

Approved as to form:

Office of General Counsel

By: 
Print Name: LISA GRAMP
Its: Asst. GENERAL COUNSEL

OHSU:


OREGON HEALTH AND SCIENCE
UNIVERSITY, a public corporation of the State of
Oregon

By: 
Steve Stadum, Chief Administrative Officer

RCI:

RIVER CAMPUS INVESTORS, LLC, an Oregon
limited liability company

By: Williams & Dame Development, Inc., an
Oregon corporation, Manager

By: 
Gary A. Finicle, Secretary/Treasurer

NMI:

NORTH MACADAM INVESTORS, LLC, an
Oregon limited liability company

By: Williams & Dame Development, Inc., an
Oregon corporation, Manager

By: 
Gary A. Finicle, Secretary/Treasurer

BLOCK 39:

BLOCK 39, LLC, an Oregon limited liability company

By: Williams & Dame Development, Inc., an
Oregon corporation, Manager

By: 
Gary A. Finicle, Secretary/Treasurer