

PORTLAND DEVELOPMENT COMMISSION
Portland, Oregon

RESOLUTION NO. 6695

**AUTHORIZING THE EXECUTIVE DIRECTOR TO TERMINATE
THE LEASEHOLD PURCHASE AND SALE AGREEMENT WITH
THE CANTERBURY GROUP, INC. FOR PROPERTY AT
CASCADE STATION AND RETURN EARNEST MONEY
DEPOSIT AND CLOSING EXTENSION PAYMENT TO
PURCHASER**

WHEREAS, Cascade Station is a 120-acre parcel of land within the Portland International Center, owned by the Port of Portland ("Port") and located at the southwest corner of the intersection of Interstate 205 and Airport Way within the Airport Way Urban Renewal District;

WHEREAS, pursuant to Resolution No. 6263, the Portland Development Commission ("PDC") Board of Commissioners ("Board") authorized PDC's acquisition of development and lease rights held by Cascade Station Development Company, LLC ("CSDC") pursuant to a certain Ground Lease dated as of July 13, 2006, by and between the Port, as Lessor, and CSDC, as lessee, which covers approximately thirty-six (36) acres in Cascade Station ("PDC Parcels"), all of which is more particularly described in (i) a certain Restructure Agreement dated as of May 17, 2006, by and among PDC, CSDC and Trammell Crow Portland Development, Inc. and (ii) a certain Assignment of Ground Lease dated as of July 13, 2006, by and between CSDC, as assignor, and PDC, as assignee;

WHEREAS, on May 2, 2008, the Perotti Group, in representing the Canterbury Group, Inc. ("Purchaser"), submitted a proposal to acquire from PDC a leasehold interest ("Leasehold Estate") in approximately two (2) acres of the PDC Parcels ("Canterbury Parcel") for the purpose of constructing a new hotel with 85 to 110 rooms ("the Project");

WHEREAS, on August 13, 2008, the PDC Board authorized execution of a Leasehold Purchase and Sale Agreement ("PSA") with Purchaser for the sale of said leasehold interest and pursuant to the terms of the PSA, Purchaser deposited an Earnest Monet Deposit of \$75,000;

WHEREAS, shortly after the parties executed the PSA, the national economy fell into significant turmoil and credit became extremely difficult to secure, especially for commercial real estate projects;

WHEREAS, despite these economic concerns, Purchaser and PDC staff worked together in good faith on the due diligence analyses called for in the PSA and on or about January 15, 2009, the Earnest Money Deposit became non-refundable;

WHEREAS, during the months of January and February 2009, the Purchaser continued to pursue financing for the Project and on February 20, 2009, their lender backed out of the project;

WHEREAS, to retain its option to proceed with the project if it could arrange other financing, Purchaser tendered to PDC on March 13, 2009, a \$25,000 Closing Extension Payment, in the form of a check payable to PDC, to extend the Outside Closing Date to June 15, 2009, with staff's agreement that said check would not be cashed and would instead be held until the Board determined how it desired to proceed;

WHEREAS, the Purchaser and PDC staff now believe that credit markets may not show significant improvement for 12 to 24 months;

WHEREAS, because of this, Purchaser has requested that PDC terminate the PSA and that the Commission agree to return the Earnest Money Deposit, to Purchaser even though the Commission is not obligated to do so under the terms of the PSA, and return the check representing the Closing Extension Payment;

WHEREAS, PDC's Investment Committee met and supports this request given the current economic climate and also supported staff continuing to work with the Canterbury Group to pursue the hotel Project, but, that PDC not be constrained by a exclusive commitment with them; and

WHEREAS, staff recommends that, because the Canterbury Group proceeded with the Project in good faith, and that neither they nor PDC could have reasonably anticipated the degree to which the credit markets would be frozen, the \$75,000 Earnest Money Deposit and the check representing the \$25,000 Closing Extension Payment be returned to the Purchaser.

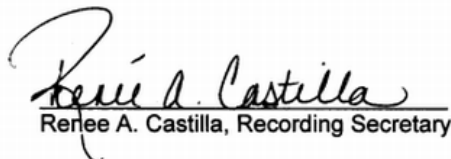
NOW, THEREFORE, BE IT RESOLVED that the Executive Director is hereby authorized to terminate the Purchase and Sale Agreement at the request of the Canterbury Group by execution of a Termination Agreement with the Canterbury Group, in substantially the form attached hereto as Exhibit A;

BE IT FURTHER RESOLVED that staff is authorized to continue to work with on the Project with the Canterbury Group to try and move the Project forward but PDC will not be contractually obligated to sell the leasehold interest without further PDC Board authorization;

BE IT FURTHER RESOLVED that the \$75,000 Earnest Money Deposit and the check representing the \$25,000 Closing Extension Payment that have been submitted to PDC by the Purchaser as evidence of their good faith intentions to proceed with the Project be returned to the Purchaser; and

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

Adopted by the Portland Development Commission on April 23, 2009.


Rerlee A. Castilla, Recording Secretary

TERMINATION AGREEMENT
[Leasehold Purchase and Sale Agreement]
[2-Acre Hotel Development on Parcel E]

This **TERMINATION AGREEMENT** (this “**Agreement**”) is entered into as of _____ (the “**Effective Date**”) between the **CITY OF PORTLAND**, a municipal corporation of the State of Oregon, acting by and through the **PORTLAND DEVELOPMENT COMMISSION**, the duly designated urban renewal agency of the City of Portland (“**Seller**”), and **CANTERBURY GROUP, INC.**, an Oregon corporation (“**Buyer**”).

RECITALS

- A. Seller and Buyer entered into that certain Leasehold Purchase and Sale Agreement [2-Acre Hotel Development on Parcel E] on September 15, 2008 (the “**Purchase and Sale Agreement**”), which contemplated Buyer’s purchase from Seller of a leasehold estate for the purpose of constructing the Canterbury Hotel Development.
- B. Subsequent to the execution of the Purchase and Sale Agreement, the financial and credit markets deteriorated rapidly and Buyer has been unable to secure financing for the Canterbury Hotel Development and is unlikely to be able to secure such financing in the foreseeable future.
- C. Because of the unexpected and rapid decline in the financial and credit markets and the consequent inability of Buyer to obtain financing for the Canterbury Hotel Development, Seller and Buyer desire terminate the Purchase and Sale Agreement on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the undertakings and mutual covenants of the parties, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Seller and Buyer agree as follows:

AGREEMENT

1. **Termination.** Seller and Buyer hereby terminate the Purchase and Sale Agreement. This termination shall have the effect set forth in Section 7.2 of the Purchase and Sale Agreement.
2. **Return of Earnest Money to Buyer.** Notwithstanding Section 1.2 of the Purchase and Sale Agreement, Seller and Buyer agree that Buyer may receive the Earnest Money and Seller and Buyer shall promptly instruct the Escrow Agent to pay the Earnest Money to Buyer.
3. **Return of Closing Extension Payment to Buyer.** Seller acknowledges receipt from Buyer of check number 1384 payable to Seller in the amount of \$25,000 (the “**Check**”) as a Closing Extension Payment. Notwithstanding Section 6 of the

Purchase and Sale Agreement, Seller shall promptly return the Check to Buyer without negotiating it. Buyer shall acknowledge receipt of the Check.

4. **Defined Terms.** Capitalized terms used but not defined herein have the respective meanings set forth in the Purchase and Sale Agreement.
5. **Further Assurances.** Each party agrees to take such additional action and execute and deliver such additional documents as may be reasonably required to effect the termination of the Purchase and Sale Agreement as contemplated by this Agreement.
6. **General.** This Agreement may not be amended except by a writing signed by the parties. This Agreement may be executed in counterparts, each of which shall constitute one agreement.

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the Effective Date.

SELLER:

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

By: _____
Bruce A. Warner, Executive Director

APPROVED AS TO FORM:

David J. Elott, Deputy General Counsel
Portland Development Commission

BUYER:

CANTERBURY GROUP, INC., an Oregon corporation

By: _____

Name: _____

Title: _____

PDC

PORTLAND DEVELOPMENT COMMISSION

Resolution Number 6695

Title:

AUTHORIZING THE EXECUTIVE DIRECTOR TO TERMINATE THE LEASEHOLD PURCHASE AND SALE AGREEMENT WITH THE CANTERBURY GROUP, INC. FOR PROPERTY AT CASCADE STATION AND RETURN EARNEST MONEY DEPOSIT AND CLOSING EXTENSION PAYMENT TO PURCHASER

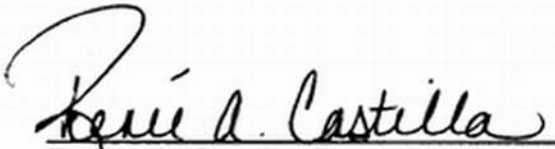
Adopted by the Portland Development Commission on April 23, 2009.

PRESENT FOR VOTE	COMMISSIONERS	VOTE		
		Yea	Nay	Abstain
<input checked="" type="checkbox"/>	Charles Wilhoite, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	Scott Andrews	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Bertha Ferrán	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	John Mohlis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Steven Straus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Consent Agenda		<input type="checkbox"/> Regular Agenda		

Certification

The undersigned hereby certifies that:

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


Renee A. Castilla, Recording Secretary

Date: May 1, 2009