

THIRD AMENDMENT
TO
SOUTH WATERFRONT CENTRAL DISTRICT PROJECT
DEVELOPMENT AGREEMENT

Dated: June ___, 2004

AMONG: PORTLAND DEVELOPMENT COMMISSION,
in its capacity as the urban renewal agency and as
agent for: Portland Office of Transportation,
Bureau of Environmental Services,
Office of Management and Finance,
and Portland Parks and Recreation ("PDC")

: OREGON HEALTH AND SCIENCE UNIVERSITY,
a public corporation of the State of Oregon ("OHSU")

: RIVER CAMPUS INVESTORS, LLC,
an Oregon limited liability company ("RCI")

: NORTH MACADAM INVESTORS, LLC,
an Oregon limited liability company ("NMI")

AND : BLOCK 39, LLC,
an Oregon limited liability company ("Block 39")

RECITALS

A. On behalf of the City of Portland, the Portland Development Commission ("PDC") negotiated the South Waterfront Central District Project Development Agreement ("Original DA") with OHSU, RCI, NMI and Block 39. The DA (defined below) provides, among other things, for development of improvements in a certain project area subject to the South Waterfront Plan of the City of Portland. The DA will facilitate development of the Project Area described therein as a mixed-use neighborhood, including commercial, retail, institutional and housing uses.

B. The Original DA was authorized by PDC on August 14, 2003, approved 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 "First Amendment"), and by the Second Amendment to the South Waterfront Central District Project Development Agreement dated April 1, 2004 (the "Second Amendment"). The Original DA, as amended by the First Amendment and the Second Amendment, is referred to herein as the "DA."

C. The DA provides that the DA will terminate unless certain Basic Contingencies to the Parties' performance are satisfied or waived by June 30, 2004. The Parties recognize that the schedule for satisfying or waiving all Basic Contingencies is no longer realistic and have agreed to a new Schedule that recognizes the significant progress made to date and to be made in the immediate future and sets forth new deadlines for items not yet satisfied or waived.

D. In addition, the Parties have agreed it is in their mutual best interest to modify certain identified elements of the DA, the implementation of which has proven impractical, or which, if modified, will enhance the overall quality or utility of various Projects contemplated by the DA.

E. The Parties also find that due to unanticipated shortfalls in some external resources to fund the Public Projects as shown in the Funding and Financing Plan, the Parties must reprioritize the sources and uses of available funds and provide additional funds to maximize the public and private benefit of such Public Projects. The Parties have negotiated a revised Funding and Financing Plan that reflects the reprioritization and the new funding sources.

F. In accordance with Section 7.1 of the DA, the Parties again acknowledge that is difficult to predict when the Phase 2 Contingent Projects will be built because of various funding uncertainties and market conditions that will impact the viability of various Phase 2 Contingent Projects in unforeseeable ways. In addition, PDC and the City face uncertainties, such as unknown long-term public policy goals and the inability to predict development that will generate tax increment revenue in the future, that make it difficult to enter into specific long-term commitments at this time. The Parties do agree, however, that as Phase 1 progresses, it will be possible to move toward tentative and binding commitments for the Phase 2 Contingent Projects.

G. The Parties now desire to make the changes necessary to the DA to implement the above stated concepts, all on the terms and conditions set forth in this Third Amendment to South Waterfront Central District Project Development Agreement (this "Amendment").

AGREEMENT

Now, therefore, in consideration of the mutual benefits to be realized by the following amendments to the DA, the following sections and subsections of the DA shall be modified as shown below. Double-underlining indicates language added by this Amendment to existing language in the DA; ~~stricken~~ words indicate text deleted from the DA. Unless otherwise defined herein, capitalized terms in this Agreement have the meanings set forth in the DA.

1. 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 ~~400 to 480~~ 500-800

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.

2. Section 2.2.6 of the DA is hereby revised as follows:

2.2.6 Phase 1 Apartments

Phase 1 Apartments means the construction of ~~100 to 150~~ 150-250 market rate apartment units on any of the Residential Blocks. In lieu thereof, NMI shall have the right to substitute condominiums for apartments pursuant to Section 9.17.5, and thereby satisfy the obligation to construct the Phase 1 Apartments.

3. Section 2.2.13 of the DA is hereby revised as follows:

2.2.13 Macadam Avenue Street Project

The Macadam Avenue Street Project is the interim improvement of Macadam Avenue ~~from Bancroft Street to Gibbs Street~~ and the improvement of the Curry Street, Bancroft Street and Gaines Street intersections, all to improve access and egress to the Project Area and the South Waterfront Plan Area. The Macadam Avenue Street Project is shown in Exhibit D-2.

4. The following new Section 2.2.17 is hereby added to the DA immediately following existing Section 2.2.16:

2.2.17 PP&L Tower Relocation

The PP&L Tower relocation means removal of the current PP&L Tower and easements on Blocks 23, 27, 30 and 31 and relocation of the PP&L Tower and the PP&L Transmission Line to the location shown on attached Exhibit M.

5. Section 3.2.1 of the DA is hereby revised as follows:

3.2 External Financing

3.2.1 The Funding and Financing Plan includes requirements for funding from

sources not wholly within the control of the Parties, including formation of the LIDs referred to in Section 5.2.5. PDC, ~~NMI, RCI, Block 39~~ and OHSU, individually or collectively, agree to diligently pursue reasonable funding from non-local public sources, including federal and state allocations, private foundations, grant programs, homeland security programs and other appropriate funds or programs (“External Funds”). PDC, ~~NMI~~ and OHSU will jointly develop priorities for pursuing these External Funds.

3.2.2 If funding required in the Funding and Financing Plan from the External Funds is not committed when and as required by the Funding and Financing Plan, then the Parties agree to negotiate in good faith in an effort to agree upon a reprioritization of the sources and uses of funding set forth in the Funding and Financing Plan and an amendment to the Funding and Financing Plan to reflect that reprioritization. If after at least sixty (60) days of good faith negotiations, the Parties are unable to agree on the terms of the amendment to the Funding and Financing Plan, then any Party may elect to terminate this Agreement by written notice to the other Parties, effective as of the date of the giving of the notice.

Although Section 3.2.2 contains no revisions, the text of such Section is set forth in this Amendment for reference purposes and to allow Sections 3.2.1 and 3.2.2 to be read together herein.

6. Section 3.2.3 of the DA is hereby deleted in its entirety and replaced with the following:

3.2.3 PDC and OHSU will cooperate to obtain federal funding for the Phase 1 Public Projects that are designated as “Tier 1” Public Projects in the Funding and Financing Plan (“Phase 1 Tier 1 Public Projects”) and for other projects in the UR Area supporting South Waterfront Plan Area development, including affordable housing, infrastructure, transportation, parks, and economic development projects. Full funding of Phase 1 Tier 1 Public Projects is a

priority objective of the efforts described in this Section 3.2.3. PDC and OHSU therefore agree that:

3.2.3.1 OHSU shall:

3.2.3.1(a) Contract for a federal funding initiative equivalent to the current effort to pursue federal funding for the Phase 1 Tier 1 projects to be allocated for federal fiscal years 2005, 2006, and 2007 (“OHSU SWF Federal Funding Initiative”). Federal dollars obligated during the foregoing years and federal fiscal year 2004 (excluding the Economic Development Initiative funds identified in April of 2004 by the U.S. Department of Housing and Urban Development pursuant to Grant Number B-04-SP-OR-0639), but expended in a year or years later than the year obligated will be included in the OHSU TIF Investment Formula, as long as they can legally be substituted for TIF Funds (defined below) in the South Waterfront Plan Area;

3.2.3.1(b) Coordinate with PDC and Bureaus as appropriate to set the agenda for federal funding priorities exclusive of OHSU programmatic requests (which OHSU requests may include both operating and capital requests for items such as program start-up needs, facilities, equipment and recruitments); and

3.2.3.1(c) Coordinate the OHSU SWF Federal Funding Initiative with JPACT and City federal funding requests, as appropriate.

OHSU responsibilities under this Section 3.2.3.1 will terminate in the event of a termination of the Agreement, as amended, or in the event of a PDC default thereunder.

3.2.3.2 Beginning on the date that is six months before the commencement of PDC fiscal year 2006 (July 1, 2005 – June 30, 2006) and continuing annually on the anniversary of such date thereafter until the exhaustion of the TIF Investment Funds,

OHSU and PDC will agree on project funding requests that would use TIF Investment Funds for OHSU Phase 2 and Phase 3 Projects so that the PDC Board, as part of PDC's annual budget cycle, can review and determine the eligibility of projects in accordance with the standards set forth in this Agreement. PDC will prepare an amendment to this Agreement or other written agreement to finalize the terms of the PDC investment of the TIF Investment Funds and the description of the OHSU project in which the TIF Investment Funds will be used.

3.2.3.3 PDC shall:

3.2.3.3(a) Act as the coordinator within the City for the joint federal funding efforts with OHSU and coordinate with Bureaus as appropriate to set the agenda for federal funding priorities exclusive of OHSU programmatic requests. PDC is not obligated to pay any portion of the cost of a contract associated with the OHSU SWF Federal Funding Initiative after June 30, 2004;

3.2.3.3(b) Coordinate the OHSU SWF Federal Funding Initiative with JPACT and City federal funding requests, as appropriate; and

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 the Funding and Financing Plan (as may be modified by the Parties) and/or (ii) other public projects contemplated or undertaken 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. 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.

(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 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.

3.2.3.3(d) As used in this Section 3.2.3, federal dollars are deemed to be “obligated” if legislative action by Congress, which has been signed by the President, authorizes or appropriates monies for the relevant project.

7. 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 ~~March 31, 2004.~~ September 30, 2004.

8. Section 5.2.1 of the DA is hereby deleted in its entirety and replaced with the following:

5.2.1 Tram Approvals

5.2.1.1 The City Council and those Bureaus with decision-making authority over the Tram (except for building permits) shall have taken the following actions by the applicable dates for such actions as set forth in the Schedule (collectively, “Tram Approval”):

- (a) Final Approval of the Tram design;
- (b) Final Approval of the budget for the Tram, including approval of the OHSU/PDOT Capital Funding Agreement and a Resolution of Intent to form the Tram (South Waterfront Plan Area and Marquam Hill) LID;

(c) Final Approval of the CM/GC contract for pre-construction services; and

(d) Final Approval of the Doppelmayr CTEC Equipment Procurement and Installation Contract.

5.2.1.2 In addition, PDOT shall have entered into an agreement with PATI, pursuant to which PATI will manage the design of the Tram consistent with Exhibit G-1, and, by the date set forth in the Schedule, the Board of Directors of PATI shall have approved the Tram design.

5.2.1.3 The Parties benefited by this Basic Contingency are PDC, RCI, NMI and OHSU.

9. Section 5.2.2.1 of the DA is hereby deleted in its entirety and replaced with the following:

5.2.2 Streetcar Extension Approvals

5.2.2.1 The City Council and all Bureaus with decision-making authority over the Streetcar Extension (except for building permits) shall have:

(a) Given written notice to proceed with construction of the Streetcar Extension from Portland State University (“PSU”) to RiverPlace Station;

(b) Given Final Approval of the revised capital budget for the Streetcar Extension from RiverPlace Station to the Gibbs Street Station;

(c) Conducted the time and manner hearing for the LID for the Streetcar Extension-RiverPlace Station to Gibbs Street Station;

(d) Secured the balance of the capital funding for the Streetcar Extension, if any;

(e) Entered into an operating agreement with Tri-Met for the Streetcar Extension;

(f) Given Final Approval of an operating budget for the Streetcar Extension from RiverPlace Station to the Gibbs Street Station;

(g) Ordered the Portland Streetcar vehicles;

(h) Developed, defined and committed to a track alignment plan; and

(i) Committed to a rail acquisition date.

All Parties are benefited by this Basic Contingency.

10. 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, ~~5.2.5.2, and 5.2.5.4~~ through 5.2.5.6, and each Party agrees to be a chief petitioner. ~~OHSU agrees to propose the formation of the LID referred to in Section 5.2.5.3 and agrees to be the chief petitioner. The Parties may, without amending this Agreement, combine the two LIDs referred to in Sections 5.2.5.2 and 5.2.5.3 into one LID, without changing the amounts assessed against the respective benefited property owners, and the Parties will be chief petitioners for the formation of the combined LID.~~ 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 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 is not a Basic Contingency. The LID described in Section 5.2.5.6

will become a Project Contingency in Phase 2 or Phase 3. 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 Portland Streetcar from its current terminus at PSU to the RiverPlace Station, as set forth in Exhibit K-1.

5.2.5.2 Tram (South Waterfront Plan Area and Marquam Hill). An LID to provide financing in an amount not to exceed ~~\$4,500,000~~ 19,000,000 for the Tram and for the Marquam Hill Tram Terminal as set forth in Exhibit K-2.

5.2.5.3 Subsection 5.2.5.3 is hereby deleted in its entirety. For reference purposes, the deleted text follows.

~~5.2.5.3 Tram (Marquam Hill). An LID to provide financing in an amount not to exceed \$5,000,000 for the Marquam Hill Tram Terminal as set forth in Exhibit K-3.~~

5.2.5.4 Subsection 5.2.5.4 is hereby deleted in its entirety. For reference purposes, the deleted text follows.

~~5.2.5.4 Macadam Avenue Improvements. An LID to provide financing in an amount not to exceed \$2,500,000 for the Macadam Avenue Street Project as set forth in Exhibit K-4.~~

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

5.2.5.6 Streetcar – Gibbs to Bancroft. An LID to provide financing in an amount not to exceed \$1,367,400 for the extension of the Portland Streetcar from the Gibbs Street Station to the Bancroft Street Station as set forth in Exhibit K-6.

11. Section 5.2.9 of the DA is hereby deleted in its entirety. For reference purposes, the deleted text follows.

5.2.9 NMI Plat

~~NMI shall have received Final Approval of an amendment to its previously approved tentative subdivision plan, pursuant to which amendment the proposed park on Block 34 shall have been eliminated, and the area of the former park shall have been designated as a development area. The Party benefited by this Basic Contingency is NMI. A substituted area for the eliminated park will be determined pursuant to Section 9.21.~~

12. Section 5.2.11 of the DA is hereby revised as follows:

5.2.11 Agreement with PP&L

The Parties shall have accomplished all of the following, which are Basic Contingencies for the benefit of all Parties:

5.2.11.1 The Parties shall have entered into an agreement with PP&L Pacific Power & Light (“PP&L”) for the ~~elimination of the PP&L Tower and the relocation of the PP&L Transmission Line to the Ross Island Bridge or the~~ removal of the current PP&L Tower and relocation of the PP&L Tower and the PP&L Transmission Line to one of the areas the location shown on attached Exhibit M. PDC shall encourage PDOT to work collaboratively on a negotiating strategy with the Parties and to actively participate in the

~~negotiations. PDC shall cause PDOT to agree to work collaboratively on a negotiating strategy with the Parties and to actively participate in the negotiations.~~

13. Section 5.2.19 of the DA is hereby deleted in its entirety. For reference purposes, the deleted text follows:

~~5.2.19 Dedication of Greenway Parcels~~

~~PDC shall have accepted the condition of title to the Greenway Parcels pursuant to Section 6.5.4.4 and shall have accepted the environmental condition of the Greenway Parcels pursuant to Section 6.5.4.6. All Parties are benefited by this Basic Contingency.~~

14. Section 5.5.2 of the DA is hereby revised as follows:

5.5.2 Final Termination Date

If all of the Basic Contingencies have not been satisfied, waived or otherwise resolved pursuant to this Agreement by October 31, 2004 ~~April 30, 2004~~ (which is thirty (30) days after the last date in the Schedule for the satisfaction of a Basic Contingency) (the “Final Termination Date”), then this Agreement shall terminate on that date, unless the failure of satisfaction of the Basic Contingencies is the result of an Unavoidable Delay. If the Final Termination Date is extended for a period of Unavoidable Delay, the maximum cumulative period of Unavoidable Delay(s) shall be no longer than 360 days.

15. Section 6.1.7 of the DA is hereby revised as follows:

6.1.7 Sidewalk Improvements

The Phase 1 Street Improvement Project does not include construction of sidewalks, street trees and tree vaults, street lights and street furniture (“Sidewalk Improvements”) which will be constructed by the owner of the Block when a Building is built on a Block. NMI, RCI, OHSU and Block 39 shall be responsible for the cost of constructing the Sidewalk Improvements that run east/west adjacent to their respective properties, and PDC shall

be responsible for the cost of constructing Sidewalk Improvements that run north/south.

Sidewalk Improvements do not include costs associated with private underground structures such as basement vaults, parking garages or private utility corridors or extra costs for Sidewalk

Improvements because they are above private underground structures and are not part of the

Phase 1 Street Improvement Project. The Parties have agreed that the cost of construction of Sidewalk Improvements on each north/south face of each Block is \$83,000. Upon completion of Sidewalk Improvements on the north/south faces of a Bblock, PDC shall reimburse NMI, RCI, OHSU or Block 39 on their respective Blocks \$83,000 for each north/south faces of each Block ~~for the reasonable actual cost of constructing Sidewalk Improvements for the north-south faces of each Block.~~ up to a total reimbursement of \$1,909,000. PDC shall be obligated to pay this amount within thirty (30) days of PDC's ~~of~~ receipt of documentation from NMI, RCI, OHSU or Block 39 as to their respective Blocks, establishing the ~~reasonable and actual cost of this work,~~ certified as being accurate by NMI, RCI, OHSU or Block 39 on their respective Blocks and by ~~the contractor(s) that performed such work.~~ completion of the Sidewalk Improvements on the north/south Block faces of the applicable Block to the reasonable satisfaction of PDC.

16. Section 6.2.4 of the DA is hereby revised as set forth below. Although some portions of Section 6.2.4 contain no revised text, the entirety of Section 6.2.4 is set forth in this Amendment for reference purposes and to allow the complete Section to be read herein.

6.2.4 Project Contingencies to Commencing Construction of the Tram

PDOT shall authorize the start of construction of the Tram when each of the following Project Contingencies is satisfied:

6.2.4.1 Completion of that portion of the Phase 1 Street Improvement Project that is required to be complete in order to permit Tram construction, except that the Parties anticipate that the S.W. Gibbs improvements may be part of the Tram project and

therefore completed as part of the Tram project, not as part of the Phase 1 Street Improvement Project.

6.2.4.2 The Parties shall have executed and delivered the property conveyance documents referred to in Section 6.2.3.

6.2.4.3 100% construction drawings for the Tram shall have been completed and approved by the PATI Board of Directors.

6.2.4.4 City Council shall have approved the CM/GC construction contract for the Tram, which shall include the steel order contract(s) necessary for the construction of the Tram.

6.2.4.~~53~~ Commencement of construction of the Phase 1 OHSU Building and the Phase 1 Condominiums shall have occurred.

6.2.4.~~64~~ PDC, PDOT and OHSU shall have entered into a Tram Construction Funding Agreement which shall detail the means and procedures for PDC, PDOT and OHSU to periodically and timely pay their respective shares of the cost of constructing the Tram, and funding shall be available for such construction. The Tram Construction Funding Agreement will also provide for the reimbursement of pre-construction costs incurred by PATI.

6.2.4.~~75~~ PDOT and OHSU shall have entered into the Tram Operations Funding Agreement, consistent with the provisions of Section 6.2.5 below and the operating standards of Exhibit G-2.

6.2.4.~~86~~ Commitments for the construction of all utility improvements or relocations in the Block 25 Easement shall be in place.

6.2.4.97 If OHSU has elected to site the Phase 1 OHSU Building on Block 25, OHSU, PATI and PDC shall have engaged in and completed the design coordination process referred to in Section 9.20.

6.2.4.108 The relocation of the PP&L Transmission Lines shall be complete. ~~have commenced.~~

6.2.4.119 All discretionary land use approvals required to authorize the construction and operation of the Tram shall have received Final Approval.

6.2.4.1240 The City shall not have adopted an ordinance, regulation, rule or requirement, after the Basic Contingencies were satisfied but before the Project Contingencies in Sections 6.2.4.1 through 6.2.4.9 are satisfied or waived, other than City-wide changes in tax abatement programs or system development charges, that would materially and adversely affect the Tram.

17. Section 6.4.5 of the DA is hereby revised as follows:

6.4.5 Project Contingencies to the Phase 1 Neighborhood Park Project Demolition and Initial Improvements. ~~PDC or t~~The Parks Bureau will commence the demolition and initial improvement activities in the Phase 1 Neighborhood Park Project three (3) months prior to substantial completion of construction of at least one hundred fifty (150) taxable residential units at a time such that the Phase 1 Neighborhood Park Project will be complete within one (1) year after at least three hundred (300) taxable residential units will have been built in the Project Area and at least one hundred fifty (150) of those three hundred (300) taxable residential units (excluding Affordable Housing) have been built on any of Blocks 31, 35, 38 and/or 39; provided that at least three hundred (300) taxable residential units will have been built in the Project Area by such substantial completion date. ~~provided that such demolition shall not~~

~~be required to commence earlier than September 30, 2007. The Hotel guest rooms shall be considered taxable residential units for purposes of this Section 6.4.5. NMI (or the owner of any such Block) shall provide written notice to PDC of the anticipated date of substantial completion of construction of taxable residential units on the applicable Block at least six (6) months prior thereto. Such notice shall be signed by the project architect or accompanied by a separate certification from the architect confirming the anticipated substantial completion date. Once such notice is received by PDC, PDC shall immediately forward the notice to the Parks Bureau, and PDC or the Parks Bureau shall timely commence and diligently prosecute to completion the Neighborhood Park initial improvements.~~

18. The first paragraph of Section 6.5.1 of the DA is hereby revised as follows:

6.5.1 Initial Greenway Improvements

NMI and RCI shall each prepare by January 2, 2004 a plan for the Initial Greenway Improvements for each of their respective Greenway Parcels, consistent with this subsection and including the scope and timing of their Initial Greenway Improvements (each an “Initial Greenway Improvement Plan”). Except for the Initial Greenway Improvements described in Section 6.5.1.2, which shall be completed by December 31, 2007, Each Initial Greenway Improvement Plan shall require completion of the Initial Greenway Improvements by June 1, 2004. Each of NMI and RCI shall submit its respective Initial Greenway Improvement Plan to the Parks Bureau and PDC for review and approval. The Parks Bureau or PDC shall not require work beyond what is described below, but the Parks Bureau or PDC may review and approve or disapprove of the details of the work described below. The Initial Greenway Improvements Project consists of the following work:

19. Section 6.5.4 of the DA is hereby revised as follows:

6.5.4. Dedication of Greenway Parcels.

The RCI Greenway Parcel is identified as Tract A of WATERFRONT SOUTH, a plat recorded in Plat Book 1261, Pages 1 through 4 of the Multnomah County Plat Records, in the State of Oregon, in the RCI tentative subdivision plan approved under LUR 02-116252 SU GW, and the NMI Greenway Parcel is identified in the NMI tentative subdivision plan approved under LUR 02-128184 SU GW. Subject to the conditions of this Section 6.5.4, RCI and NMI agree to dedicate their respective Greenway Parcels to the City, Parks Bureau, as follows:

20. Section 6.5.4.4 of the DA is hereby revised as follows:

6.5.4.4 ~~Within sixty (60) days after the Effective Date,~~ PDC shall review the condition of title to the RCI Greenway Parcels on or before the date that is one hundred twenty (120) days after the full execution of this Amendment and shall review title to the NMI Greenway Parcel within one hundred twenty (120) days after NMI notifies PDC in writing that the date the final plat creating the same each of the Greenway Parcels is recorded in the records of Multnomah County, and give RCI and NMI respectively notice of its acceptance or rejection of the condition of title of its respective parcel with the exception of liens and encumbrances requiring the payment of money. Failure to give notice shall be deemed PDC's acceptance of the condition of title for a Greenway Parcel. If PDC accepts the condition of title of the Greenway Parcels, RCI and NMI agree to dedicate their respective Greenway Parcels to the City with the condition of title the same as of the date of PDC's notice, but with all liens and encumbrances requiring the payment of money removed. If PDC does not accept the condition of title, and RCI or NMI refuses to cause the removal of any unacceptable title exceptions prior to or as a condition of the dedication, the NMI and RCI responses being given to PDC by notice not later

than sixty (60) days after the date of the PDC notice, then the City is not obligated to accept dedication of the Greenway Parcels. Failure of NMI or RCI to give a response to PDC's notice shall be deemed a refusal to remove the unacceptable exceptions;

21. Section 6.5.4.6 of the DA is hereby revised as follows:

6.5.4.6 ~~Within ninety (90) days after the Effective Date, PDC shall complete its review and accept or reject the environmental condition of each of the Greenway Parcels and give RCI or NMI, as appropriate, notice of its acceptance or rejection of the environmental condition of its respective Greenway Parcel within one hundred eighty (180) days after RCI or NMI notifies PDC of completion of each of the Initial Greenway Improvements, other than the Outlook Improvement, and of the end of all construction staging activities within the Greenway Parcel(s) of the existing environmental reports and complete any due diligence investigation it deems necessary to determine the environmental condition of the Greenway Parcels and to give RCI and NMI respectively notice of its acceptance or rejection of the environmental condition of its respective Greenway Parcel.~~ If PDC accepts the environmental condition of the Greenway Parcels, RCI and NMI agree to dedicate the Greenway Parcels to the City with the environmental condition the same as of the date of PDC's notice, with evidence reasonably satisfactory to the City being given at the time of the dedication. If PDC does not accept the environmental condition of a Greenway Parcel, and RCI or NMI refuses to cause the remediation of any unacceptable environmental conditions prior to or as a condition of the dedication, which refusal shall be communicated to PDC by notice not later than sixty (60) days after the date of the PDC notice, then the City is not obligated to accept dedication of a Greenway Parcel which is unacceptably contaminated.

22. Section 6.14.2.4 of the DA is hereby deleted in its entirety. For reference purposes, the deleted text follows.

~~6.14.2.4 The (a) execution and delivery to the City by RCI, NMI, Block 39, 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 an LID for the Macadam Avenue Street Project pursuant to Section 5.2.5.4 and Exhibit K-4, and (b) formation and Final Approval of such LID.~~

23. The following new Section 9.1.3 is hereby added to the DA immediately following existing Section 9.1.2:

9.1.3 Urban Design Advisor

9.1.3.1 PDC will retain and manage, at its sole expense, an urban design advisor (the “Design Advisor”) to coordinate the public and private design/development efforts for the Project. The Design Advisor will work closely with the Parties and their design teams, providing comments on Project designs and facilitation of collective design efforts.

9.1.3.2 Specifically, the Design Advisor will provide oversight of the urban design context for development in the South Waterfront Plan Area with particular focus on the public realm and integration of public and private built environments. The Design Advisor will provide advice and perspective on complex, urban design opportunities and issues from a district-wide perspective and will assist in facilitating resolution of urban design issues and opportunities with the appropriate public or private entity. Notwithstanding anything to the contrary set forth in this Section 9.1.3, the Design Advisor shall have no ability to compel action by or otherwise bind any of the Parties. This design coordination is anticipated to occur at key points in the process, focusing largely on graphic discussions and solutions. The Design Advisor’s role will focus on design coordination early in the design process, and does not replace

the City's design review process administered through BDS and the Design Review Commission.

9.1.3.3 The Parties will participate in the process led by the Design Advisor to pursue the above-stated goals. Specifically, the Parties will attend periodic meetings with PDC staff and Bureau staff, bringing their respective development/design teams. Following each such meeting, the Design Advisor will prepare a summary memo and appropriate drawings for distribution to all Parties. The document will summarize the discussion, any agreements and the Parties' next steps as to any areas of discussion. Areas of discussion are anticipated to include public realm, public/private interface, public entrances/faces of buildings, and interrelationships of various uses and activities and integration of project designs.

24. Section 9.11.4 of the DA is hereby revised as follows:

9.11.4 Other Regulations

NMI, RCI and OHSU shall follow all applicable provisions of federal or state statutes and regulations concerning minimum wages for public projects, as applicable. The Parties acknowledge that the Phase 1 Street Improvement Project and the Phase 1 OHSU Building are each a "public work" for purposes of PDC's contracting guidelines, requiring the payment of prevailing wages. NMI will make a good faith effort to select contractors who pay Oregon Bureau of Labor and Industries published Prevailing Wage rates unless paying a Prevailing Wage puts NMI at a competitive disadvantage or substantially damages or interferes with NMI's efforts to meet M/W/ESB workforce diversity goals set forth in Section 9.11.5 or M/W/ESB goals described in Section 9.11.1, as reasonably determined by NMI. Upon request, NMI shall furnish PDC with reports summarizing its good faith efforts under this Section. NMI

agrees that it will make available to PDC NMI's relevant records in the event PDC alleges a breach of, or makes an inquiry under, this Section.

25. The following new Section 9.11.5 is hereby added to the DA immediately following existing Section 9.11.4:

9.11.5 Workforce Diversity Strategy

9.11.5.1 Purpose and Goals. PDC, NMI, RCI, OHSU and Block 39 will work cooperatively to implement the workforce diversity strategy described in this section ("Workforce Diversity Strategy" or "Strategy"). The purpose of the Strategy is to use the Project as a model that leads to a permanent increase in the participation of minorities, women and disadvantaged persons in the construction trades and professions in the Portland metropolitan area during the duration of this Agreement. The Parties agree that an effective strategy must include cooperative efforts among the Parties, construction contractors and construction trade unions performing Project work. To that end the Parties agree that a successful Workforce Diversity Strategy must focus on permanently increasing the number of qualified women and minorities entering and successfully completing union apprenticeship training programs and remaining in the construction trades in the Portland metropolitan area. Therefore, the Parties agree to pursue the following goals in an attempt to forward the Workforce Diversity Strategy and to seek in good faith agreements with construction contractors and trade unions that accomplish the following:

- a. Adopt a phased workforce diversity goal of 35% to be achieved on a project-by-project basis within a 10-year period, comprised of 20% ethnic minorities and 15% women.
- b. Increase diverse workforce participation by increasing union apprenticeship enrollment and journeyman completion rates over the same 10-year period.
- c. Adopt implementation metrics based on total apprentice and journeyman work hours for each construction trade on a project-by-project basis.

d. Obtain written commitments from the individual trade apprenticeship programs listed on Exhibit X-2 to accomplish admissions targets and an increase in journeymen.

The chart set forth on Exhibit X-1 shows the expected progressive participation by women and minority apprentices and journeymen on the Project.

9.11.5.2 Apprenticeship Training Targets. The Parties agree that to accomplish this increased participation that they will in good faith seek to negotiate agreements with trade unions for admission and completion of training programs along the guidelines set forth on Exhibit X-2. In addition the Parties will in good faith negotiate agreements with major construction contractors and the above trade unions on targets to increase the number of women and minority of journeymen status working on the Project.

9.11.5.3 Apprenticeship Graduation Rate Targets.

9.11.5.3(a) The Parties agree that completion of, and graduation from, apprenticeship programs is an important piece of the Workforce Diversity Strategy. The Parties agree that to accomplish this goal that they will in good faith seek to negotiate agreements with trade unions to establish programs that aim to normalize graduation rates for minorities and women participating in apprenticeship programs in the Columbia-Pacific Building Trades Region. NMI and OHSU further agree to openly discuss with their respective general contractors the goals of this Section 9.11.5.3 in a good faith attempt to facilitate and to insure that the Workforce Diversity Strategy is achieved. The Parties acknowledge that graduation rates for minority and women apprentices participating in construction trades training programs are low and that increasing such graduation rates will help to ensure that the Strategy is achieved during the Project period. Implementation programs to be considered by the Parties and the trade unions may include, but are not limited to, identifying success factors of minority and women

graduates, in consideration of the success factors identified, increasing education and training of apprentices to ensure that graduation requirements are met, and regularly monitoring the progress of apprentices for early identification of problems. PDC shall work in good faith with the other Parties to establish effective implementation programs and strategies, including entering into agreements with Bureau of Labor and Industries for monitoring and reporting. Notwithstanding anything to the contrary set forth in this Section 9.11.5, each Party shall be required to pursue the goals of the Strategy and to use good faith efforts to seek agreements with contractors and trade unions unless doing so puts any such Party at a competitive disadvantage, as reasonably determined by such Party.

9.11.5.3(b) The chart on Exhibit X-3 sets forth current overall graduation rates from various trades in the Columbia-Pacific Building Trades Region. The goal of this Section 9.11.5.3 is to increase the graduation rates for minorities and women such that the disparity between overall graduation rates and minority and women graduation rates is reduced during the next ten (10) years. The Parties are hopeful that such increases will approach the current overall graduation rates from apprenticeship programs as set forth on Exhibit X-3.

9.11.5.4 Assessment of Progress. In furtherance of the goals stated above, OHSU, NMI, RCI and Block 39 will encourage their general contractors working on Contingent Projects in the Project Area to support the Workforce Diversity Strategy and will require such contractors to provide summary data reflecting minority and women workforce participation within the Project Area. The Parties also agree to annually assess the progress of the Workforce Diversity Strategy through review and analysis of workforce data collected from each Party's respective contractors, trade unions and other sources. PDC, NMI, OHSU, RCI and Block 39 acknowledge that the Workforce Diversity Strategy may be modified over time based

on this annual assessment, and the Parties agree to negotiate in good faith to address changes and amend this Agreement accordingly. All Parties will be bound by any material changes to the Workforce Diversity Strategy that are set forth in writing and signed by the Parties.

26. Section 9.17.3.1 of the DA is hereby revised as follows:

9.17.3.1 Subject to the provisions of this Agreement, if NMI develops more than ~~the maximum number of apartments and condominiums required by Sections 2.2, 2.3 and 2.4-2230~~ but fewer than 3000 ~~such apartments and condominiums~~ 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.

27. The following language is hereby added to the DA as the introductory paragraph of Subsection 9.21:

9.21 Future Parks.

The City, through the Bureau of Planning, and Parks determined that the pocket park on Block 34 should be relocated to a substituted area to better accommodate open space needs in the Project Area and distribute open areas more evenly throughout the Project Area. Accordingly, PDC shall advocate for and support a final plat amendment submitted by NMI pursuant to which amendment the proposed park on Block 34 shall be eliminated and the area of the former park shall be designated as a development area. A substituted area for the eliminated park will be determined pursuant to this Section 9.21.

28. Section 9.21.1 of the DA is hereby revised as follows:

The Parks Bureau anticipates that a park in addition to the Neighborhood Park will be built in the South Waterfront Plan Area outside the Project Area. NMI agrees that if NMI

acquires more than a cumulative five (5) acres of Developable Land outside of and south of the Project Area but within the South Waterfront Plan Area, then NMI will make a one-time offer to donate to the Parks Bureau a parcel of land, which may be a separate block or may be part of a block, of at least 20,000 square feet. The site to be offered by NMI to the Parks Bureau shall not be adjacent to either the Greenway or Macadam Avenue. NMI will implement this covenant by making a written offer to the Parks Bureau within six (6) months of the acquisition of the property described above, and the Parks Bureau shall have seventy-five (75) days after receipt of NMI's written offer to review NMI's due diligence file regarding the property which is the subject of the offer and to elect in writing to accept the offer. NMI shall also allow the Parks Bureau reasonable access to the property to conduct its own due diligence investigation. If the Parks Bureau accepts the donated property, NMI will convey the donated property without representations or warranties other than a warranty that NMI owns the property, has authority to donate the property, and that the property is free of any monetary liens. If the Parks Bureau does not accept the offered donation, then NMI's obligation under this Section 9.21.1 will be deferred to and apply to the next acquisition by NMI of a cumulative five (5) acres of Developable Land outside of and south of the Project Area. If the Parks Bureau accepts this donation, NMI will make the donation within thirty (30) days after the property to be donated is a legal lot. In connection with this donation, NMI shall be free to transfer all of the FAR off the donated parcel and NMI shall not seek an SDC credit for the donation.

29. The following new Section 9.24 is hereby added to the DA immediately following existing Section 9.23.5:

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.

30. Section 10.2.1.2 of the DA is hereby revised as follows:

If the conditions in Section 10.2.1.1 are not met as required in order for a particular Affordable Apartments Contingent Project to be developed in accordance with the Schedule, then until the second anniversary of the date of substantial completion of the Parking Garage upon which that Affordable Apartments Contingent Project was to be built, NMI will not construct another project on that Parking Garage. However, if by that second anniversary of substantial completion, PDC has not provided the financing for that Affordable Apartments Contingent Project pursuant to Section 10.2.1.1, then PDC shall, within sixty (60) days, acquire NMI's rights with respect to the air space above that Parking Garage for cash in the amount of ~~NMI's cost in acquiring those rights, plus interest at NMI's cost of capital, unless NMI's cost is not ascertainable, and, in that event, PDC shall pay cash in the amount of the appraised value of~~ those rights determined pursuant to Section 9.9.

31. The following new Section 10.2.3 is hereby added to the DA immediately following existing Section 10.2.2:

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.

32. Section 18.2.8.2 of the DA is hereby revised as follows:

18.2.8.2 The Parties have agreed that the repayment of the Adjusted Public Investment 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, 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.~~\$257,900,000.~~ Notwithstanding the foregoing, when such total real market value is equal to or greater than \$257,900,000, Whenever that occurs, then thereafter, no

property owner in the Project Area shall have any further obligation under Section 18.2 or any Gap Obligation Agreement.

33. The following new Section 18.7 is hereby added to the DA immediately following existing Section 18.6:

18.7 Additional Project Obligation.

18.7.1 Additional Payments. In order to increase the potential amount of Tax Increment Revenue generated by Phase 1 Contingent Projects in amounts sufficient to support the Funding and Financing Plan, NMI has agreed to take on an obligation to create additional real market value in the amount set forth on Exhibit V-1, which amount exceeds that contemplated by Section 18.2 and Exhibit V in each applicable tax year (“Additional RMV”). In addition, NMI has agreed to take on additional payment obligations (each, an “Additional Obligation”) for failure to develop projects sufficient to achieve the target real market value as set forth on Exhibit V-1, which amount is in addition to the real market value required to be created under Section 18.2 and pursuant to Exhibit V in each applicable tax year (the “Target RMV”), within the time frames set forth thereon. If, in any fiscal year shown on Exhibit V-1, the Additional RMV created by Phase 1 Contingent Projects does not equal or exceed the Target RMV, then an Additional Obligation shall be triggered; *provided, however*, that if construction of a Project that is anticipated to create the Target RMV has commenced by December 31, 2007, then NMI shall have until December 31, 2008 to complete such Project before the Additional Obligation is actually triggered. On or before December 15th of each tax year, PDC shall compute the amount of the Additional Obligation (each, an “Additional Payment”) by multiplying the applicable debt service payment amount set forth on Exhibit V-1 by a fraction, the numerator of which is the difference between the Target RMV and the Additional RMV and

the denominator of which is the Target RMV. PDC shall give written notice of the Additional Payment to NMI, and NMI shall pay the Additional Payment amount to PDC in accordance with Section 18.7.5 below. Amounts due pursuant to this Section 18.7.1 shall be a lien upon the property of NMI in favor of PDC, but any such lien shall be automatically subordinate to the lien of a construction mortgage(s) incurred to provide funds for a Contingent Project, any permanent mortgage(s) providing funds to pay off a construction loan, or to any subsequent refinancings (collectively, "Mortgages"); provided that the total amount of Mortgages prior to PDC's lien shall not exceed 80% of the fair market value of the applicable Contingent Project. The obligation to make an Additional Payment is excused during and to the extent of an Unavoidable Delay. The obligation to make Additional Payments does not apply to Contingent Projects in Phases 2 and 3.

18.7.2 Additional Payment Credit. Gap Credits shall apply to and thereby reduce any and all Additional Payments due under this Section 18.7.

18.7.3 Transfers. In the event of a Transfer, the rights and obligations set forth in this Section 18.7 shall be assigned by NMI to the transferee as part of the Gap Obligation Agreement to be reviewed and approved by PDC. The specifics of the assignment and assumption related to the Additional Obligation shall be as agreed upon by NMI and the transferee. To the extent the Additional Obligation is assumed by a transferee and set forth in a recorded Gap Obligation Agreement, the amount of the corresponding Additional Payment shall be subtracted from the amount of any Additional Payment due from NMI. In addition, the property described in the Gap Obligation Agreement shall be released from the lien referred to in Section 18.7.1, and the amounts secured by the lien referred to in Section 18.7.1 shall be reduced by the Additional Obligation and corresponding Additional Payment referred to in the Gap

Obligation Agreement.

18.7.4 Termination of Additional Payment Obligation

18.7.4.1 In the case of a Transfer, when a Contingent Project produces real market value (as defined in ORS 308.205) and the real market value set forth in the assessment roll pursuant to ORS 308.215 is equal to the amount shown for that Contingent Project in Exhibit V plus the Target RMV set forth in Exhibit V-1, then thereafter, the owner of that Contingent Project shall have no further liability for an Additional Payment on account of that Contingent Project or under a Gap Obligation Agreement applicable to that Contingent Project.

18.7.4.2 In accordance with Section 18.2.8.2, 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, 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 this Section 18.7 is based on commercial valuation and (ii) \$288,200,000, if the Target RMV created pursuant to this Section 18.7 is based on residential valuation, then thereafter, no property owner in the Project Area shall have any further obligation under this Section 18.7 for any Additional Payment.

18.7.5 Miscellaneous. Additional Payments shall be collected in the same manner Gap Payments are collected under Section 18.2.10. The remedy provisions of Sections 18.4, 18.5 and 18.6 shall be applicable to this Section 18.7.

18.7.6 Right of First Refusal – FAR. In consideration for taking on the Additional Obligation pursuant to this Section 18.7, PDC hereby grants to NMI a right of first refusal to purchase up to 550,000 square feet of floor area ratio that can be used in the South Waterfront Plan Area (“FAR”), all on the terms and conditions set forth in this Section 18.7.6.

18.7.6.1 Notice of Proposed Transfer; Acceptance Notice. PDC shall deliver to NMI a copy of any bona fide offer received by PDC to purchase FAR which PDC intends to accept within five (5) business days after determining its acceptability, and PDC shall deliver to NMI a copy of any bona fide offer which PDC desires to deliver to sell FAR which is acceptable to PDC (each an "Offer"). This Section 18.7.6 shall apply to any Offer regarding the sale, purchase, exchange, conveyance, or other transfer of any FAR by PDC. NMI shall have thirty (30) days after receipt of a copy of the Offer (the "Offer Notice") to exercise NMI's option to purchase the FAR, which exercise shall be accomplished by the delivery to PDC of a written acceptance notice (the "Acceptance Notice"), pursuant to which NMI elects to purchase the FAR on the same terms and conditions as are contained in the Offer.

18.7.6.2 NMI's Failure to Accept. If NMI fails to deliver an Acceptance Notice within the time described in Section 18.7.6.1, PDC shall have the right, within six (6) months after the date of the Offer Notice, to convey the FAR on the same terms and conditions as set forth in the Offer. Unless conveyance of the FAR is made on the terms and conditions set forth in the Offer within such 6-month period, NMI's first right to purchase FAR shall automatically be reinstated.

18.7.6.3 Acceptance by NMI. If NMI delivers an Acceptance Notice within the time described in Section 18.7.6.1 above, NMI shall be obligated to purchase FAR on the same terms and conditions as are set forth in the Offer, and PDC shall be obligated to sell FAR to NMI on the same terms and conditions as are set forth in the Offer.

18.7.6.4 Miscellaneous. FAR purchased pursuant to this Section 18.7.6 shall be used for taxable development projects in the UR Area. NMI's right of first refusal to purchase FAR shall continue until NMI has been offered a total of 550,000 square feet of FAR.

Notwithstanding the foregoing, NMI's right of first refusal shall not apply to transfers of FAR from PDC to other Bureaus or public agencies so long as the FAR is used for the construction of one or more structures owned by the City, PDC or another Bureau or public agency. In the event PDC transfers FAR to another Bureau or public agency, the transferee shall be prohibited from transferring the FAR received to a third party that is not a Bureau or public agency unless the provisions of this Section 18.7.6 are first fulfilled. Such prohibition shall be set forth in a written agreement between PDC and the applicable Bureau or public agency. Until NMI's rights of first refusal under this Section 18.7.6 have terminated, PDC shall provide NMI with written notice of transfers of FAR among Bureaus and/or public agencies of which PDC has knowledge.

34. Exhibits.

34.1 The following Exhibits are hereby revised and replace the corresponding Exhibits attached to the Original DA: Exhibits I, J, K, M, U and V. The following new Exhibits are hereby added to the DA: Exhibits V-1, X-1, X-2 and X-3. Such Exhibits are attached to and incorporated into this Amendment and the DA by this reference.

34.2 Exhibit C.

34.2.1 The following definitions are hereby added to the Glossary of Defined Terms (Exhibit C) of the DA:

“Additional Conditional Investment” means an investment by PDC in a commercializable research project contemplated by Section 3.2.3.3(c). Once an Additional Conditional Investment is made, there shall be no obligation on OHSU to produce a return on that investment or to repay that investment.

“Developable Land” means land acquired by NMI that is suitable for commercial or residential development and the area of such land shall be calculated based on the total square

footage or acreage acquired less any and all land (a) conveyed to PDC, another Bureau or public agency or controlled by PDC or its assignee, (b) dedicated or used for public vehicular and/or pedestrian right-of-ways, (c) granted or reserved as easements for utilities and (d) dedicated or required by Law to be maintained as greenway or open space.

“Market Rate Housing” means residential units (including condominium, apartment and retirement community units) that are rented or sold at market rates, but excluding Student Housing Units and the Hotel.

“OHSU TIF Investment Formula” means the formula used to determine the amount of TIF Investment Funds available for eligible OHSU capital projects as set forth and described in Section 3.2.3.3(c).

“TIF Investment Funds” means the amount of funds available to PDC for investment in eligible OHSU capital projects.

34.2.2 The definition of “Additional Affordable Obligation” is hereby revised as follows:

“Additional Affordable Obligation” means the obligation of NMI to build Affordable Housing on property acquired by NMI in the UR Area as provided in Section 9.234.

34.2.3 The definition of “Final Approval” is hereby revised as follows:

“Final Approval” means a final decision by a governmental body with respect to discretionary approval with only conditions acceptable to all Parties, each in their sole discretion, and the expiration of all applicable local and/or administrative appeal periods (including, without limitation, the expiration of all applicable land use appeal periods) without an appeal or, if an appeal is filed, then the affirmation of the final decision upon appeal with no possibility of

further appeal, or the affirmation of the first appellate decision with no possibility of a subsequent appeal.

34.2.4 The definition of “PP&L” is hereby revised as follows:

“PP&L” means Pacificcorp, d/b/a Pacific Power & Light Company. ~~Pacific Power and Light, Inc.~~

34.2.3 The definition of “Schedule” is hereby revised as follows:

“Schedule” means the schedule for completing the Contingent Projects attached as Exhibit JF.

35. General Provisions.

35.1 Effective Date. This Amendment is effective on the date first set forth above.

35.2 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 oral agreements on the same subjects.

35.3 Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and when taken together shall constitute one and the same instrument.

35.4 Effect on DA. Except as amended by this Amendment, the DA remains in full force and effect.

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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: _____
Print Name: _____
Its: _____

Approved as to form:

Office of General Counsel

By: _____
Print Name: _____
Its: _____

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

By: _____
Print Name: _____
Its: _____

RCI: RIVER CAMPUS INVESTORS, LLC, an Oregon
limited liability company

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

By: _____
Print Name: _____
Its: _____

NMI:

NORTH MACADAM INVESTORS, LLC, an
Oregon limited liability company

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

By: _____
Print Name: _____
Its: _____

BLOCK 39:

BLOCK 39, LLC, an Oregon limited liability company

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

By: _____
Print Name: _____
Its: _____