

188944

AFTER RECORDING RETURN TO:

[Record and return copy of recorded document to: Sabin CDC, 1488 NE Alberta St, Portland, OR 97211]

COVENANT TRANSFERRING DENSITY

THIS COVENANT TRANSFERRING DENSITY, is granted this _____ day of May, 2018, by City of Portland, Bureau of Parks and Recreation (“Grantor”) in favor of Sabin Community Development Corporation (“Grantee”).

RECITALS

A. Grantor is the fee title owner of that tract of real property located in the City of Portland, Oregon, more particularly described in the attached **Exhibit A** (“Lot 1”). Lot 1 is located at 5810 NE 72nd Ave. Portland, OR 97218. Grantor seeks to transfer density from Lot 1 to an abutting property on the same city block.

B. Grantee is the fee title owner of real property located in the City of Portland, Oregon, more particularly described in the attached **Exhibit B** (“Lot 2”). Lot 2 is located at 5740 NE 72nd Ave. Portland, OR 97218.

D. Pursuant to Portland Zoning Code Section 33.120.205.A, a maximum of 7 dwelling units are allotted for Lot 1 but this maximum density will not be met on Lot 1.

E. Pursuant to Portland Zoning Code Section 33.120.205.E, Grantor is entitled to transfer density of up to 2 dwelling units from Lot 1 to Lot 2.

F. Grantor desires to transfer two (2) dwelling units from Lot 1 to Lot 2.

AGREEMENT

1. **ASSIGNMENT/TRANSFER.** Grantor, as owner of Lot 1, hereby conveys, assigns, and transfers the density equivalent of two (2) dwelling units from Lot 1 to Lot 2
2. **RUNS WITH THE LAND.** This Covenant shall run with Lot 1 and shall be binding on all future owners of Lot 1 and all other persons and parties claiming through Grantor and limitation upon and for the benefit of all future owners of Lot 1 and Lot 2
3. **INTENDED BENEFICIARIES.** This Covenant is intended to benefit Lot 2 by receiving density from Lot 1. This Covenant is also intended to benefit the City by assuring the overall density of development on Lot 1 and Lot 2 satisfies the required minimum density and does not exceed the maximum density the Portland Zoning Code allows.
4. **ENFORCEMENT; ATTORNEY FEES.** Grantor acknowledges that if Grantor fails to

perform under this Covenant, both Grantee and the City shall have the right to bring legal proceedings against the persons violating or threatening to violate this restriction, including terminating occupancy of Lot 1 and seeking all necessary injunctive relief, including seeking to prevent future occupancy on Lot 1 while a violation of this Covenant exists. In the case of legal proceeding instituted by the City, the City shall also have the right to recover any costs incurred by the City to enforce the terms of this Covenant, including attorney fees and court costs.

5. **CONDITIONS OF APPROVAL.** Grantor and Grantee will comply with all applicable Code requirements and conditions of approval relating to approval of this Covenant.
6. **FUTURE RIGHTS.** In the event the City amends the Portland Zoning Code to increase the Maximum Density Transfer, the density transferred pursuant to this Covenant shall be equal to the new Maximum Density Transfer.
7. **ASSURANCES OF GRANTOR.** Grantor warrants that it is the legal owner of and has good right to convey the Transferred density, and covenants that it will execute or procure any further necessary assurances of its rights to make this transfer.
8. **ADDITIONAL ASSURANCES OF GRANTOR.** The owner of Lot 1 shall execute and deliver from time to time, promptly upon request of the owner of Lot 2, at the owners' sole cost and expense, such reasonable instruments as the owners of Lot 2 shall deem necessary (a) to confirm that the property interest hereby transferred is the Transferred density only and does not include fee ownership of land or the ownership interests that would create liability for real estate taxes; water, sewer or other public utility charges; downtown development agency charges; or any other similar governmental or public agency charges, and (b) to make all applications and filings as may be reasonably requested by the owner of Lot 2 to enable the owners of these lots to fully utilize the Transferred density.
9. The Parties agree that the material consideration for the Covenant is the anticipated additional two more units of housing that Grantee may develop on Lot 2 with the transferred residential density. If Grantee's constructed project fails to achieve two more units of housing, then any unused portion of the Transferred density shall revert to the Grantor.
10. **AMENDMENT.** This covenant may not be amended without the written consent of the City of Portland.
11. **TERMINATION.** This covenant may be terminated by the Grantor upon recordation of an instrument signed by the City of Portland acknowledging that Lot 1 and Lot 2 are no longer subject to the base density and bonus density limitations and the resulting density calculations as recorded in this covenant.
12. If Grantee fails to commence development on Lot 2 by May 1, 2020, this covenant shall be terminated by the Grantor upon recordation of a termination of covenant. It is Grantee's sole responsibility to timely provide satisfactory written documentation supporting commencement of its development before the deadline stated in this Section. Satisfactory documentation may include confirmation of available funding, commitment of labor and materials to undertake the development, issuance of a notice to proceed to its construction contractor, and other information acceptable to Grantor. Grantor's representative shall be the City of Portland's

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Commissioner in Charge of Portland Parks and Recreation, City Hall, 1221 SW 4th Avenue, Portland, Oregon 97204, with any legal notices copied to the Portland City Attorney's Office, 1221 SW 4th Avenue, Room 430, Portland, Oregon 97204.

- 13. **RECORDATION.** Grantor shall submit this covenant to the Multnomah County Recorder with instructions to file said Covenant with the deed records of Lot 1 and Lot 2.
- 14. **REMAINING MINIMUM AND MAXIMUM DENSITY.** For purposes of this covenant, the remaining minimum density requirement on Lot 1 is 4 dwelling units and the maximum density allotment is 5 dwelling units. The new minimum density requirement on Lot 2 is 6 dwelling units and the maximum density allotment is 9 dwelling units.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Covenant on the date stated above.

GRANTOR:

Amanda Fritz, City Commissioner

By: _____
 Name: _____
 Its: _____

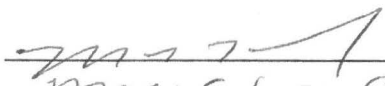
STATE OF _____)
) ss.
 County of _____)

This instrument was acknowledged before me by _____,

Notary Public for _____

GRANTEE:

Mary Schoen-Clark, Sabin CDC

By: 
 Name: Mary Schoen-Clark
 Its: Executive Director

STATE OF Oregon)
) ss.
 County of Multnomah)

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EXHIBIT A

Legal Description of Grantor's Lot

SECTION 17 1N 2E, TL 300

1N2E 17DC 300

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EXHIBIT B

Legal Description of Grantee's Lot

PORTVIEW TR, LOT 10
1N2E17DC 400