



## City Center Redevelopment Authority Board Meeting Agenda

January 15, 2026

12:30 PM

### Location

City Hall, Council Chambers, FI 2

415 W 6th Street

Vancouver, WA 98660

### Virtual Viewing:

For the Microsoft Teams link for virtual viewing, please call 360-487-7843 or email [callie.taylor@cityofvancouver.us](mailto:callie.taylor@cityofvancouver.us)

### 1. Call to Order and Roll Call

Marc Fazio, Board Member

- a. Roll Call
- b. Excusal of Absence, if needed

### 2. Election of Officers

Marc Fazio, Board Member

- a. President
- b. Secretary/Treasurer

### 3. Approval of Minutes

- a. 12/18/25 Minutes

### 4. Executive Director Report

Patrick Quinton, Executive Director, Economic Prosperity & Housing

### 5. Community Communications

To provide public testimony, please see instructions below.

### 6. Waterfront Gateway Development Agreement Amendment

- a. Presentation - Chim Chune Ko, Real Estate Project

## City Center Redevelopment Authority Board

### Members

Marc Fazio  
Michi Slick  
Alisa Pyszka  
Richard Krippaehne  
Ken Anderton  
David Copenhagen  
Heather Friend

### Economic, Housing and Prosperity

415 W. 6<sup>th</sup> Street  
Vancouver, WA 98660  
TTY: 711  
[www.cityofvancouver.us](http://www.cityofvancouver.us)

Manager

**7. Executive Session, if needed**

**8. Adjournment**

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**Community Forum Instructions**

The public is invited to speak regarding any issue on the agenda. Members of the public testifying are asked to limit testimony to three minutes. There are three ways to provide comments:

1. Writing: Public comments can be submitted in writing (name, address, contact information and comments) via email to [callie.taylor@cityofvancouver.us](mailto:callie.taylor@cityofvancouver.us) by 5pm the day before the meeting.
2. Remotely: Remotely: Pre-register by phone at 360-487-7846 or email [callie.taylor@cityofvancouver.us](mailto:callie.taylor@cityofvancouver.us) by 5pm the day before the meeting.
3. In Person: Pre-register by phone at 360-487-7846 or email [callie.taylor@cityofvancouver.us](mailto:callie.taylor@cityofvancouver.us) by 5pm the day before the meeting or fill out a Public Comment form in person prior to the start of the Community Communications portion of the meeting.

City Hall is served by C-TRAN. Route information and schedules are available online at [www.c-tran.com](http://www.c-tran.com). You also may reach C-TRAN at (360) 695-0123 for more information on times, fares, and routes.

Anyone needing language interpretation services or accommodations with a disability at a Vancouver City Council meeting may contact the City Manager's staff at (360) 487-8600 (RELAY: 711). Assistive listening devices and live Closed Captioning are available for the deaf, hard of hearing and general public use. Please notify a staff person if you wish to use one of the devices. Every attempt at reasonable accommodation will be made. To request this agenda in another format, please also contact the phone numbers listed above.

**Date:** December 18, 2025

**Time:** 12:30-2:30 pm

**Location**

City Hall – Aspen Room, Fl 1  
415 W 6<sup>th</sup> Street  
Vancouver, WA 98668

**Regular Meeting** (Convened in person and via video conference)

The meeting agenda materials referenced in these minutes can be found [online](#).

Link to meeting video: [25 12 18 CCRA Meeting Video](#).

**Item 1: Call to Order and Roll Call**

The December 18, 2025, meeting of the City Center Redevelopment Authority was called to order at 12:31 pm by Marc Fazio.

**Board Members Present:** Marc Fazio, Richard Krippaehne, Alisa Pyszka, Heather Friend, David Copenhaver

**Board Members Absent:** Michi Slick, Ken Anderton

**Staff Present:** Patrick Quinton, Kimberly Kerlee, Taylor Hallvik, Callie Taylor

**Presenters:** None

**Motion** by Krippaehne, seconded by Pyszka and carried unanimously to excuse the absence of Michi Slick and Ken Anderton.

**Item 2: Approval of Minutes**

**Motion** by Krippaehne, seconded by Pyszka, and carried unanimously to approve the November 20, 2025, minutes. Board member Friend abstained due to her absence from that meeting.

**Item 3: Executive Director Report**

Patrick Quinton informed the committee that a Development Pipeline report was not presented due to its short length; the report will be consolidated and presented at the next meeting. He also acknowledged that the subcommittee met earlier this month and reviewed the Waterfront Gateway project. Quinton stated that he is developing a workplan agenda for 2026–2027 and anticipates distributing it to the committee in early January. He also reminded the committee that new officers will be elected at the January meeting. Quinton provided an update on the RFP for Phase Two of the Heights District. Rather than issuing a new RFP, Quinton is working to finalize a meeting in late January with local developers for an educational

## Members

Marc Fazio  
*President*

Richard Krippaehne  
David Copenhaver  
Michi Slick  
Alisa Pyszka  
Ken Anderton  
Heather Friend



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**To request accommodation or other formats, please contact:**

Economic Prosperity & Housing | 360-487-7846 | Relay 711 | [Kimberly.Kerlee@cityofvancouver.us](mailto:Kimberly.Kerlee@cityofvancouver.us)

discussion focused on workforce housing. President Fazio asked who would be invited to the meeting, and Quinton responded. Board Member Pyszka asked what considerations are being made regarding current market conditions, and Quinton responded. Board Member Copenhaver commented on his observations of multiple projects occurring in Portland. Board Member Pyszka asked whether the multifamily tax exemption extends to Fourth Plain, and Quinton responded.

**Item 4: Public Comment**

None

**Item 5: Executive Session**

Taylor Hallvik opened with a statement. President Fazio called for the executive session at 12:45 pm and concluding at 1:30 pm. There will be no action taken following the executive session.

President Fazio returned at 1:30 pm and extended the executive session to 1:50 pm.

**Item 6: Adjournment**

1:50 pm

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Marc Fazio, Board President

Meetings of the City Center Redevelopment Authority are electronically recorded on audio. The audio tapes are kept on file in the office of the City Clerk for a period of six years.

**CCRA 2026 -2027 Workplan**  
Revised January 15, 2026

<b>Meeting Date</b>	<b>Actual/Proposed Agenda Items</b>	<b>Comments</b>
January 15, 2026	<ul style="list-style-type: none"> <li>• Election of Officers</li> </ul>	Annual election of President and Secretary/Treasurer
	<ul style="list-style-type: none"> <li>• Waterfront Gateway Development Agreement Amendment</li> </ul>	Review and action on the proposed amendment to the DDA with Lincoln.
February 19, 2026	<ul style="list-style-type: none"> <li>• Comp Plan Update</li> </ul>	Presentation from City staff on status of Comp Plan
	<ul style="list-style-type: none"> <li>• Downtown Active Ground Floor Study</li> </ul>	Staff will present update on study of market potential for active commercial space in Downtown
March 19, 2026	<ul style="list-style-type: none"> <li>• 2025 Development Activity review</li> </ul>	Staff report on development activity in 2025 including progress toward City housing goals and MFTE activity.
	<ul style="list-style-type: none"> <li>• Main Street Promise project update</li> </ul>	Project update from City staff and project team
April 16, 2026	<ul style="list-style-type: none"> <li>• Downtown Redevelopment implementation update</li> </ul>	Staff will present update on next steps in implementing recommendations from Downtown Redevelopment Study.
	<ul style="list-style-type: none"> <li>• Tax increment analysis update</li> </ul>	Staff will present update on analysis of potential downtown tax increment areas and next steps
May 21, 2026	<ul style="list-style-type: none"> <li>• CCRA Business Plan implementation update</li> </ul>	Staff update on work to move CCRA Business Plan forward.
June 18, 2026	<ul style="list-style-type: none"> <li>• Tax increment areas update</li> </ul>	Staff will present update on progress in analyzing the potential for establishing tax increment areas

July 16, 2026	<ul style="list-style-type: none"> <li>• Interstate Bridge Replacement (IBR) program update</li> </ul>	Project update from City staff and IBR team.
August 20, 2026	No meeting	
September 17, 2026	<ul style="list-style-type: none"> <li>• Economic Development Strategy implementation update</li> </ul>	Staff will present update on implementation of Economic Development Strategy adopted in 2025.
	<ul style="list-style-type: none"> <li>• CCRA Budget review</li> </ul>	Depending on implementation of CCRA Business Plan, Board may need to review and approve budget for FY 2027-28.
October 15, 2026	<ul style="list-style-type: none"> <li>• Parking Plan implementation update</li> </ul>	Update from staff on 2026 implementation activities
November 19, 2026	TBD	
December 17, 2026	No meeting	
January 21, 2027	<ul style="list-style-type: none"> <li>• Election of Officers</li> </ul>	Annual election of President and Secretary/Treasurer
	<ul style="list-style-type: none"> <li>•</li> </ul>	
February 18, 2027	<ul style="list-style-type: none"> <li>• CCRA Business Plan implementation update</li> </ul>	Staff will provide update on actions taken to establish CCRA financial independence.
March 18, 2027	<ul style="list-style-type: none"> <li>• 2025 Development Activity review</li> </ul>	Staff report on development activity in 2025 including progress toward City housing goals and MFTE activity.
	<ul style="list-style-type: none"> <li>• Comp Plan implementation update</li> </ul>	Presentation from City staff on status of implementation of priority actions in Comp Plan
April 15, 2027	<ul style="list-style-type: none"> <li>• Downtown Parking Update</li> </ul>	Staff will provide an update on changes to downtown parking policies and implementation of the Downtown Parking Plan.
	<ul style="list-style-type: none"> <li>•</li> </ul>	
May 20, 2027	<ul style="list-style-type: none"> <li>• Interstate Bridge Replacement (IBR) program update</li> </ul>	Project update from City staff and IBR team.
	<ul style="list-style-type: none"> <li>•</li> </ul>	

June 17, 2027	TBD	
July 15, 2027	TBD	
August 19, 2027	No meeting	
September 16, 2027	TBD	
October 21, 2027	TBD	
November 18, 2027	TBD	
December 16, 2027	No meeting	

**CCRA 2025 Workplan**  
**Revised December 18, 2025**

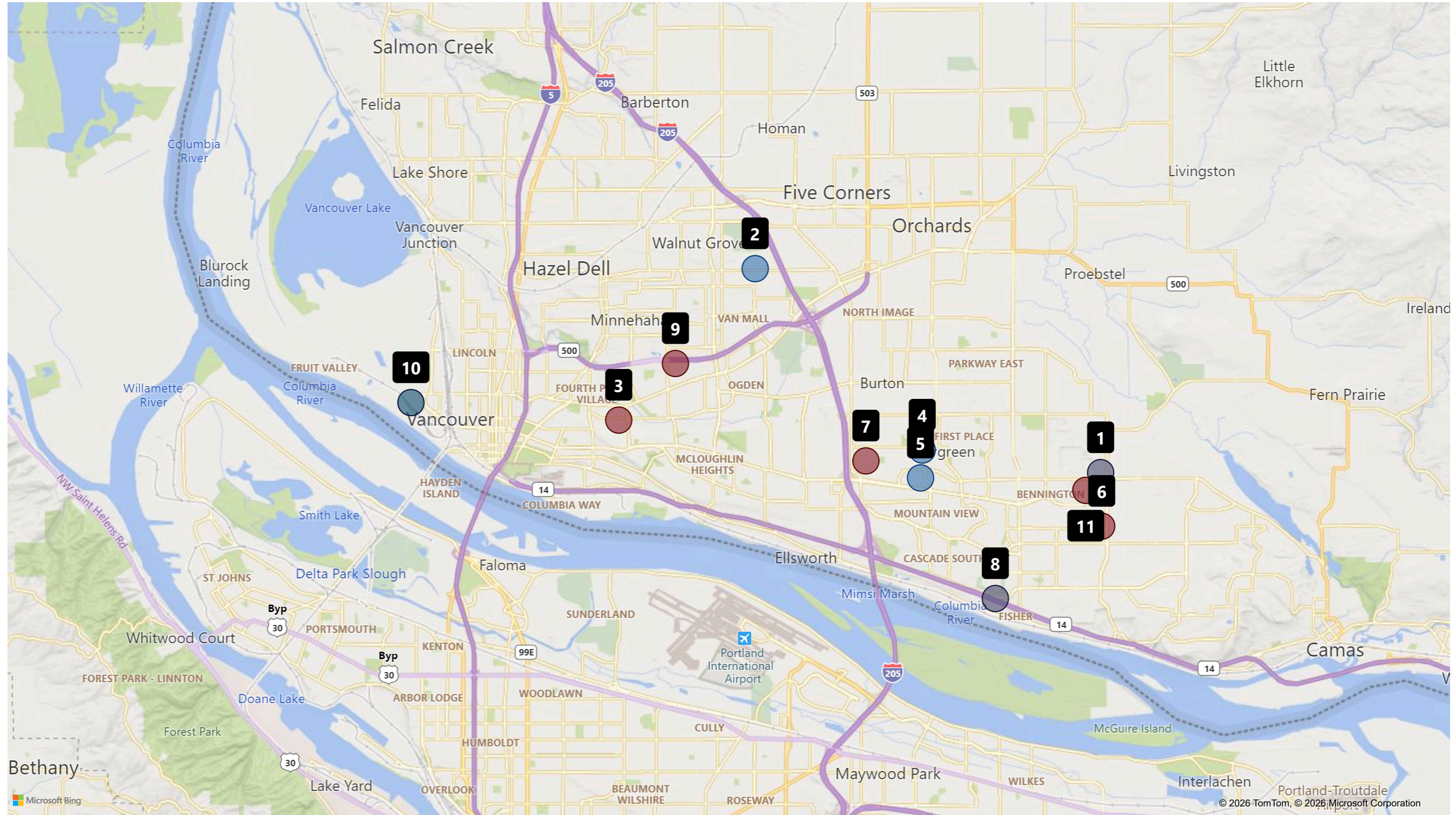
<b>Meeting Date</b>	<b>Actual/Proposed Agenda Items</b>	<b>Comments</b>
January 16, 2025	<ul style="list-style-type: none"> <li>• CCRA Business Plan</li> </ul>	Presentation of CCRA business model options for review and discussion of next steps by Board.
	<ul style="list-style-type: none"> <li>• Downtown Parking Plan final review and recommendation</li> </ul>	Presentation from City staff on final plan for discussion and recommendation by Board.
	<ul style="list-style-type: none"> <li>• Comp Plan Update</li> </ul>	Presentation from City staff on status of Comp Plan process
February 20, 2025	<ul style="list-style-type: none"> <li>• Election of Officers</li> </ul>	Annual election of President and Secretary/Treasurer
	<ul style="list-style-type: none"> <li>• 2024 Development Activity review</li> </ul>	Staff report on development activity in 2024 including progress toward City housing goals and MFTE activity and permit staff adequacy.
	<ul style="list-style-type: none"> <li>• Economic Development Strategy update</li> </ul>	Presentation from consultant team and City staff on draft economic development plan.
March 20, 2025	<ul style="list-style-type: none"> <li>• Downtown Redevelopment Assessment</li> </ul>	Presentation of draft final study and recommendations for feedback from Board
	<ul style="list-style-type: none"> <li>• Downtown Design Guidelines</li> </ul>	Update from City staff on proposed changes to downtown design guidelines.
April 17, 2025	No meeting	
May 15, 2025	<ul style="list-style-type: none"> <li>• Downtown Redevelopment Assessment</li> </ul>	Presentation of final study and recommendations for adoption by Board

	<ul style="list-style-type: none"> <li>• Main Street Promise project update</li> </ul>	Project update from City staff and project team
June 26, 2025	<ul style="list-style-type: none"> <li>• Housing Action Update</li> </ul>	Presentation on proposed actions to provide additional incentives for housing production
	<ul style="list-style-type: none"> <li>• Redevelopment Investment Options</li> </ul>	Staff will present update on potential tools to fund public investments in future redevelopment projects and next steps
July 17, 2025	<ul style="list-style-type: none"> <li>• Comprehensive Plan update</li> </ul>	Staff to present update on Comp Plan and draft environmental impact statement (DEIS) findings
	<ul style="list-style-type: none"> <li>• Green Building Policy update</li> </ul>	Staff to present on analysis of cost impacts from proposed policy and recommendations.
August 21, 2025	No meeting	
September 18, 2025	<ul style="list-style-type: none"> <li>• Executive Session</li> </ul>	Executive Session to update board on real estate negotiations.
October 16, 2025	No meeting	
November 20, 2025	<ul style="list-style-type: none"> <li>• Green Building Policy review and recommendation</li> </ul>	Presentation by City staff on updated draft of policy for recommendation prior to Council action
	<ul style="list-style-type: none"> <li>• Parking Plan implementation update</li> </ul>	Update from staff on initial implementation activities
December 18, 2025	<ul style="list-style-type: none"> <li>• Executive Session</li> </ul>	Update on real estate negotiations

# Development Pipeline Report

November & December 2025 Activity										
Map	Project	Location	Area	Use	Total Res Units	Total Sq Ft	Parking Spaces	Notes	Contact or Contractor	Applicant, Developer or Owner
Pre-Application										
	N/A									
Land Use Review										
1	Lacamas Square Phase 2	200 NE 192nd Ave	Fircrest	Commercial	0	40,000		Proposed 40,000 sf gym facility with supporting infrastructure adjoining existing Lacamas Square		
2	Songbird Springs	8208 NE 63rd St	Green Meadows	Mixed-Use	260		472	Proposed 3-story, 7,500 sf building with 202 apartment units and 58 townhouse units.	Songbird Springs, LLC	Dan Wisner
Building Plan Review										
3	Date Park	3701 E 18th St	Maplewood	Multi-Family Residential	70	60,931		Proposed 4-story, 70 unit affordable housing apartment building with separate building for leasing office, caretaker unit, and one additional apartment.	Andrew Gunther	Date Park Condominium
4	136th & 9th Mixed-Use	NE 9th Street & NE 136th Ave	Fircrest	Mixed Use	36	62,291	60	Proposed mixed use project with two total buildings: one 3-story multi-family building with 36 units and a 1-story office building.	Brandi Ho	MAJ Development
5	Jens Pointe West	120 NE 136th Ave	Fircrest	Mixed Use	152		420	Proposal to construct a new apartment complex with 8 total buildings that consist of (4) 3-story multi-family buildings, (1) 4-story multi family building, (2) 3-story multi family buildings with live/work or office space on the ground floor and (1) 1-story community building.	Brandi Ho	MAJ Development
Building Inspection										
6	SE 192nd Avenue Apartments	19004 SE 15th St	Bennington	Multi-Family Residential	222	9,012		Proposal to construct a multi-family residential development with 222 dwelling units.	Gary Vance	Vance Development
7	Maple Valley	520 NE 117th Ave	Fircrest	Multi-Family Residential	32	82,203	34	Proposed 32 unit townhome style apartment development	Travis Johnson	Serghei Comarnitchi, Sunlight Electric In
Completed										
8	Gillespie Dental Building	15601 SE Cascade Park DR	Fisher	Commercial	0	9,414	57	Completed dental office building.	BnK Construction	Roadrunners Realty, LLC
9	Greystone Apartments	5500 NE 34th Street	Bagley Downs	Multi-Family Residential	25	9,206	28,995	Completed 3-story, 25-unit multi-family apartment building.	Chris Baumann	DEA Properites - 3 LLC
10	Redd Metal Building	2121 Saint Francis Street	Fruit Valley	Commercial	0	10,534		Completed 10,534 sf metal building, including 306 sf mezzanine, divided into 3 tenant spaces	Diversified Marine Inc	Kurt Redd
11	CTC Bennington on 1st	505 SE 184th Ave 98683	Bennington	Multi-Family Residential	582	726,690	1,151	Completed 582 unit multi-family project on four parcels totaling 31.05 acres with associated on-site amenities.	IDM Builds NW LLC	Columbia Tech Center LLC

Development Type ● Commercial ● Industrial ● Mixed Use ● Multi-Family Residential





# Waterfront Gateway Agreement Amendment

**Patrick Quinton** – Director, Economic Prosperity and Housing  
**Chim Chune Ko** – Real Estate Project Manager,  
Economic Prosperity & Housing

January 15, 2026

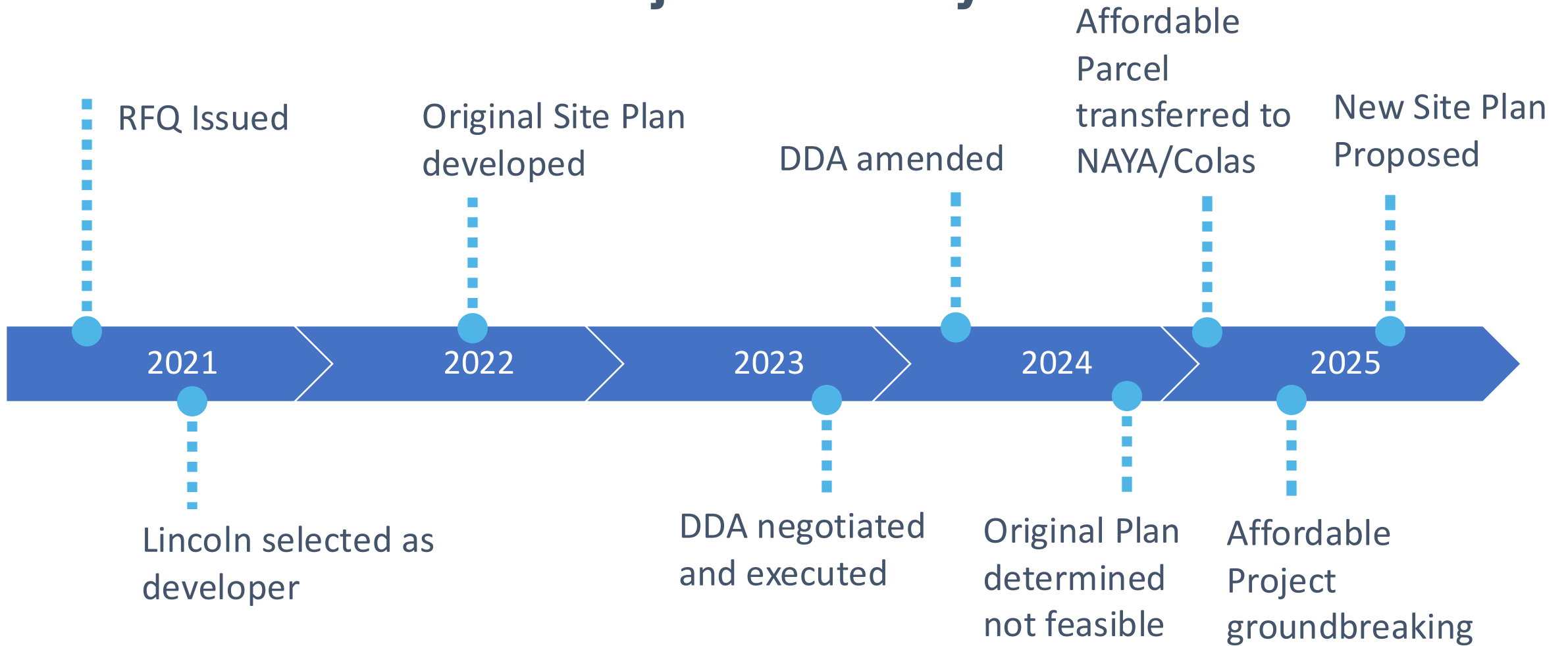


# Agenda

- Project History
- Market Challenges
- Overview of Previous Plan
- Proposed Program Change
- New Deal Terms
- Unchanged Deal Points
- Project Timeline
- Project Benefits
- Requested Action



# Project History



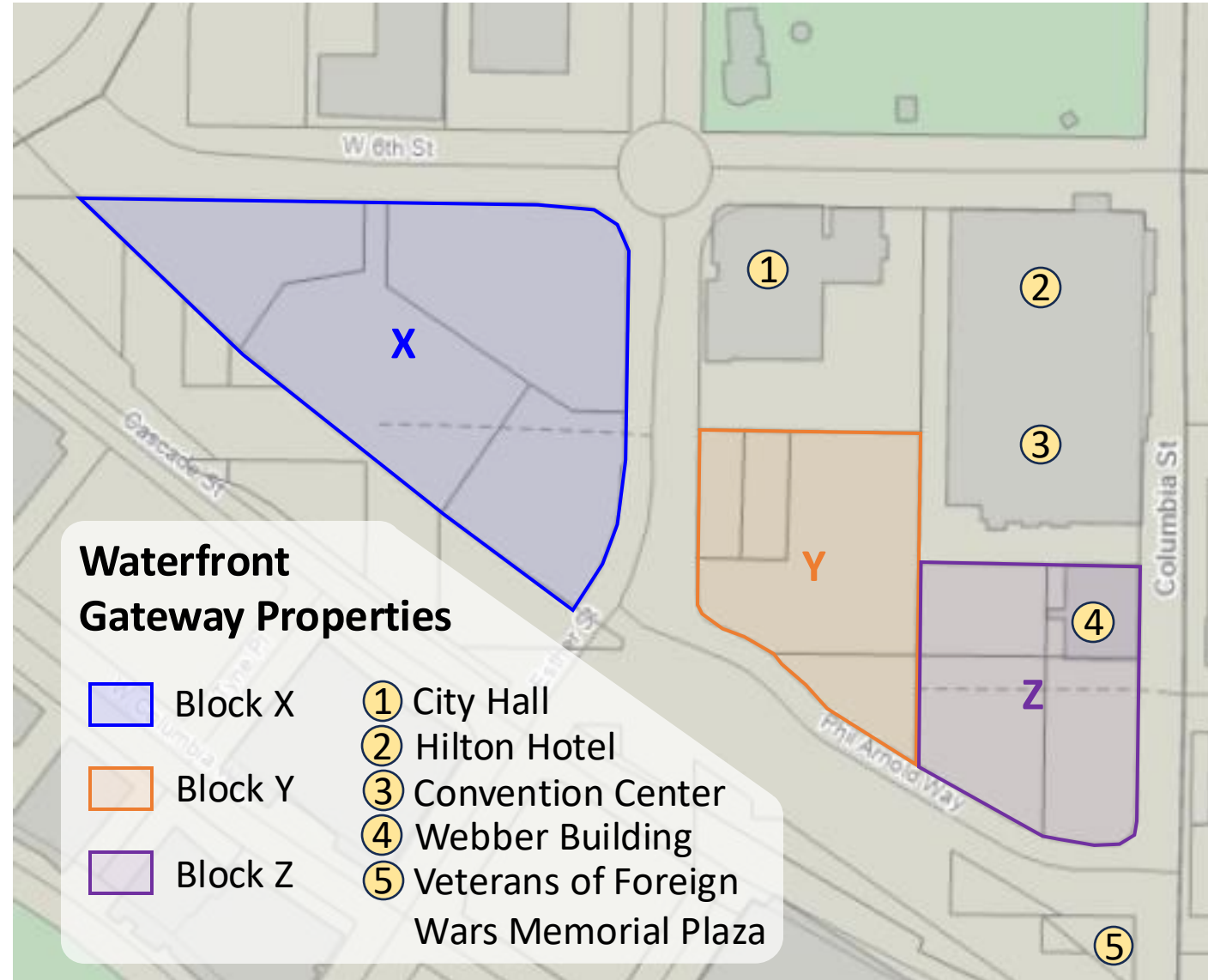
# Market Challenges for Residential Development

- High Interest Rates
  - Lower leverage
  - Higher return requirements
- Construction/Material costs
  - Labor shortage
  - Increasing building standards/requirements
  - Material cost increases/tariffs
- Stagnant Rent Growth
- Increased Operating Costs
- Investor preference for existing properties
  - Lower cost and stabilized performance



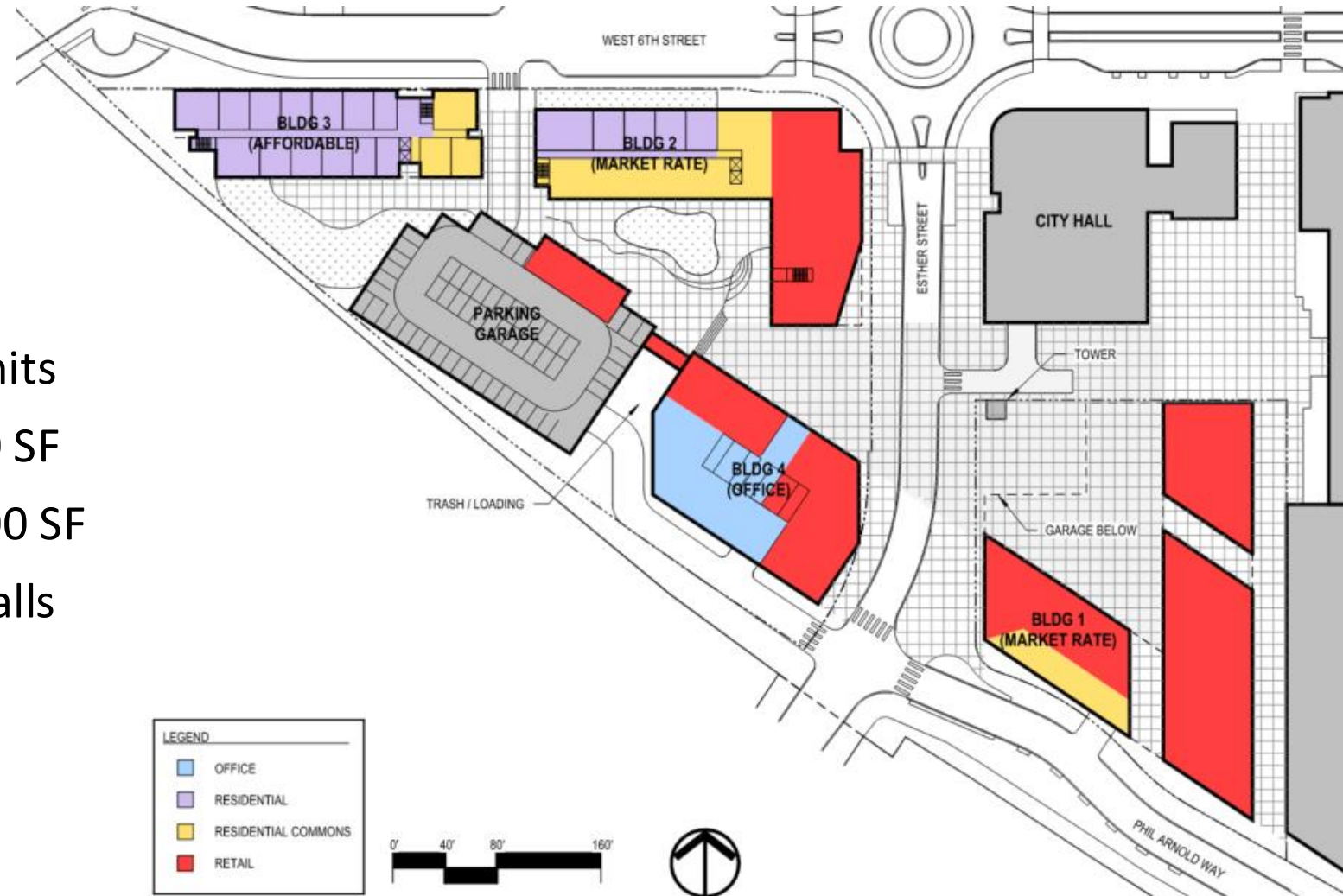
# Waterfront Gateway Parcels

Block X Affordable: 28,600 sq ft  
Block X Market Rate: 117,000 sq ft  
Block Y: 67,000 sq ft  
Block Z: 67,000 sq ft



# Previous Plan

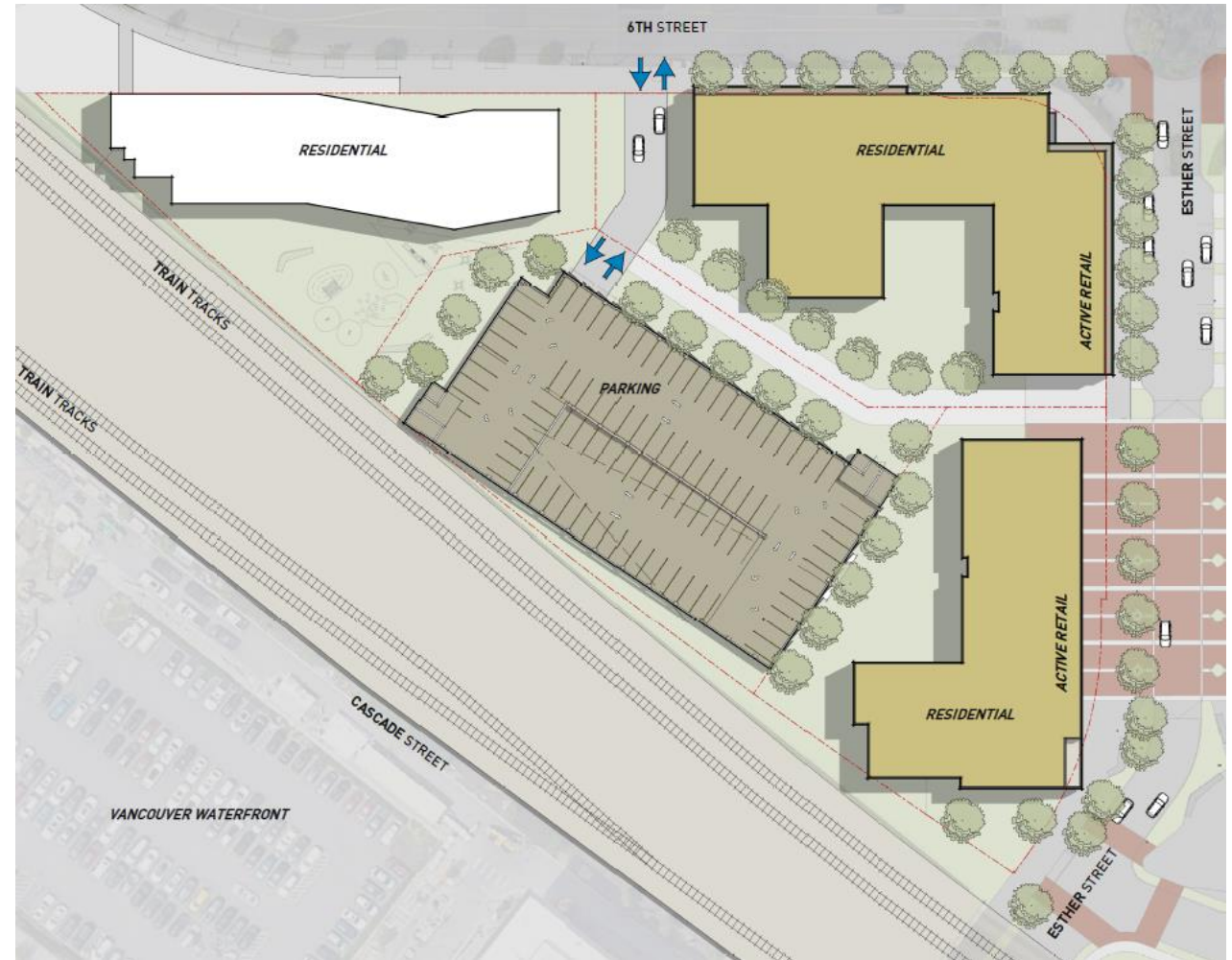
Residential: 280 Units  
Retail: 37,400 SF  
Office: 110,000 SF  
Parking: 593 Stalls



# Proposed New Plan

## Updated Block X Layout

- Block Y removed (including the Plaza)
- Similar layout to the original plan but now 100% Residential
- Up to 50% of residential to be affordable at 80% AMI for minimum of 10 years
- 6 Story light wood framing



# Summary of Proposed Changes

	Original Plan	Proposed Change
Total Units	279	315
Affordable Units	0	153
Retail SF	37,500	9,000
Office SF	110,000	0
Open Space	2 acres	0.3 acres*
Parking	593 stalls	306 stalls**

\*Open Space on Block X alone is unchanged from Original Plan

\*\*Estimate from Lincoln. Amended DDA does not include a parking minimum beyond code



# Deal Changes

- Contract performance target dates changed to deadlines (events of default) for:
  - Submission of building permits
  - Start of construction
  - Completion of construction
- Multifamily Tax Exemption (MFTE) changed from 8 Year Market Rate to 12 Year Affordable
- Ground lease rent discounted by the percentage of affordable housing (up to 50%)
- Schedule extended to accommodate the City's 6 story light wood framing codework
- Parking reserved for the COLAS/NAYA affordable project
- Ground lease updated to reflect changes



# Proposed Change in City Contribution – Block X

Existing Agreement		Proposed Additions to City Contribution	
	Estimated Cost		Estimated Cost
Soil Removal	\$0.2M	Extend MFTE from 8 to 12 years	\$1.0M*
MFTE – 8 Year	\$2.5M	Construction Sales Tax Exemption	\$1.9M*
<b>Total</b>	<b>\$2.7M</b>	Proposed Lease Discount (50%) over 20 years from original terms	\$4.2M*
		Include parking for NAYA Project in garage (50 stalls)	\$1.0M
		<b>Net Change to City Contribution</b>	<b>\$8.1M</b>
		<b>City Return on Investment**</b>	<b>8.26%</b>

\* Value is lost revenue compared to existing deal terms, not direct City Contribution. If the existing deal were to fall through, this revenue would not be collected.

\*\* The estimated break-even date for this investment would be 2044



# Unchanged Deal Points



- Small Business Opportunities Plan
- Sustainability commitment
  - Previously approved Green Building measures
  - Bike and EV parking
  - Silver Leaf tree coverage
- Contractor and subcontractor requirements
- Public access through site
- Contaminated Media Management Plan

# New Project Timeline

	Original Plan	Inside Dates	Outside Date (Contractual Default Dates)
6 Story Code Adoption	N/A	Target July 2026	August 2026
Permit Submittal	October 2025	12 months from 6 Story Code Adoption (July 2027)	August 2027
Start of Construction	October 2026	4 Months from Permit Approval	March 2028
Construction Completion	October 2029	3 years from start of construction	March 2031



# Benefits of Amended Agreement

- Previous plan is not feasible in the current market conditions
- Amending the existing plan delivers critical housing faster than new RFP/RFQ
- New site plan adds substantial new affordable housing
- Focus on Block X allows for future development of Blocks Y and Z in a more integrated fashion



# Requested Action

Review and recommend for Council approval Amended and Restated Disposition and Development Agreement and Ground Lease Form Template



# Thank You



**AMENDED AND RESTATED LAND DISPOSITION AND DEVELOPMENT AGREEMENT  
(WATERFRONT GATEWAY DEVELOPMENT)**

**BY AND BETWEEN**

**CITY OF VANCOUVER, a Washington municipal corporation,**

**AND**

**LPC WEST LP, a Delaware limited partnership**

**JANUARY \_\_, 2026**

**AMENDED AND RESTATED  
LAND DISPOSITION AND DEVELOPMENT AGREEMENT  
(WATERFRONT GATEWAY DEVELOPMENT)**

THIS AMENDED AND RESTATED LAND DISPOSITION AND DEVELOPMENT AGREEMENT (WATERFRONT GATEWAY DEVELOPMENT) is made as of January \_\_, 2026 (the “**Effective Date**”), by and between CITY OF VANCOUVER, a Washington municipal corporation (“**City**”), and LPC WEST LP, a Delaware limited partnership, and its permitted successors and assigns (“**LPC West**”). City and LPC West are each referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties**”.

**RECITALS**

A. City owns the real property commonly referred to as the “Vancouver Waterfront Gateway” site, which is located near the intersection of West 6th Street and Esther Street, in Vancouver, Washington, and legally described on Exhibit A-1 attached hereto (the “**Property**”). **[Confirm that the legal description has been revised to include only Block X.]**

B. City identified the Property, along with other nearby land not part of this Agreement, as a potential re-development site and entered into a November 4, 2019 Memorandum of Understanding with the City Center Redevelopment Authority, a City of Vancouver public authority (“**CCRA**”) that authorized CCRA to solicit, select, and negotiate with a qualified lead developer to develop the site pursuant to a comprehensive development plan that would provide for a multi-story, mixed use district with public facilities and amenities on the Property. Any proposed development plan or disposition and development agreement arising out of the negotiations between LPC West and CCRA is subject to review and contingent upon approval by City Council.

C. On March 31, 2021, CCRA issued a “Request for Qualifications: Development Opportunity for a New District in Downtown Vancouver” (the “**RFQ**”) for the Property and, following a thorough public review process, selected LPC West as the preferred lead developer for the Property.

D. On November 18, 2021, CCRA and LPC West entered into an Exclusive Negotiation Agreement, which was subsequently extended by amendments through October 31, 2023 (collectively, the “**ENA**”).

E. LPC West and CCRA have negotiated the elements of a development plan for the project commonly known as “Waterfront Gateway” and the terms of this Agreement. Pursuant to this proposed development plan, the Property is anticipated to be developed as four separate parcels, generally anticipated in the locations shown on Exhibit A-2 attached hereto, with final legal descriptions to be agreed to by the Parties as provided in Section 2.4.5 of this Agreement (each a “**Parcel**” and collectively the “**Parcels**”). For purposes of describing and distinguishing between the Parcels, and the manner and sequence in which they are to be leased or conveyed, this Agreement will reference Parcels 2, 3, 4, and 5 as shown on Exhibit A-2.

F. As provided by the terms of this Agreement, the Parties anticipate that they will enter into a separate ground lease for three of the Parcels, and that City will convey one of the Parcels to LPC West. The Parties acknowledge and agree that City would not agree to ground lease or convey any Parcel to LPC West without the development terms, conditions, and obligations set forth in this Agreement.

G. On June 10, 2025, pursuant to that certain Partial Assignment of Land Disposition and Development Agreement, the City of Vancouver accepted LPC West’s partial assignment to Native American Youth and Family Center (“**NAYFC**”) of LPC West’s rights and obligations under the Original DDA with respect to Parcel 3. Parcel 3 was sold to NAYFC on June 26, 2025. **[Check closing date.]**

H. Due to changes in economic conditions and project feasibility, LPC West and the City of Vancouver have mutually agreed to revise the design and uses of the projects to be constructed on Parcel 2, 4, and 5 and to remove Parcel 1 shown on Exhibit A-2 from the Agreement.

I. The Parties previously executed and delivered that certain Land Disposition and Development Agreement (Waterfront Gateway Development) dated October 9, 2023, as amended by that certain First Amendment to Land Disposition and Development Agreement (Waterfront Gateway Development) dated March 21, 2024 (collectively, the “**Original DDA**”). As of the Effective Date, this Agreement amends, restates, and replaces the Original DDA in its entirety except for definitions from the Original DDA that are specifically defined in reference to the Original DDA herein.

## AGREEMENT

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, LPC West and City agree as follows:

### ARTICLE 1. DEFINITIONS AND EXHIBITS

1.1 **Definitions.** In addition to the defined terms with meanings given elsewhere in this Agreement, the following definitions shall apply throughout this Agreement.

1.1.1 “**100% Schematic Design Plans and Drawings**” means the schematic design drawings of the Improvements to be attached to this Agreement as Exhibit B following approval by the City in its proprietary capacity in accordance with the terms of this Agreement and which will need to be approved by the City in its regulatory capacity.

1.1.2 “**Access Easements**” has the meaning set forth in Section 6.2.8.

1.1.3 “**Additional Deposit**” has the meaning set forth in Section 3.3.1.

1.1.4 “**Affordable Housing**” has the meaning set forth in Section 6.1.1.

1.1.5 “**Affordable Housing Covenant**” has the meaning set forth in Section 3.2.3.

1.1.6 “**Affordable Housing Parcel**” and “**Parcel 3**” means the parcel identified on Exhibit A-2 as the “Affordable Housing Parcel”.

1.1.7 “**Affordable Housing Parcel Parking**” means the parking capacity provided on “Parcel 5” that shall be available for non-exclusive use by tenants of the Affordable Housing Parcel with parking charges that are no greater than market rates.

1.1.8 **“Agreement”** means this Amended and Restated Disposition and Development Agreement, including the attached Exhibits and all subsequent duly executed memoranda, implementation agreements, and amendments to this Agreement.

1.1.9 **“Allocated Value”** has the meaning set forth in Section 4.1.3.1.

1.1.10 **“Approvals”** has the meaning given to it in Section 2.1.2.4.

1.1.11 **“Block X”** has the meaning set forth in Section 4.1.3.1.

1.1.12 **“Block Y”** means Parcel 1.

1.1.13 **“Business Days”** mean any day other than Saturday, Sunday, or a legal holiday in the state of Washington as provided by the RCW 1.16.050(1) or a successor statute.

1.1.14 **“CCRA”** has the meaning set forth in Recital B.

1.1.15 **“Certificate of Completion”** has the meaning given to it in Section 5.6.

1.1.16 **“Certificate of Occupancy”** means the temporary certificate of occupancy issued by City, or comparable City sign-off, for the completion of construction of a Component of the Improvements.

1.1.17 **“City”** has the meaning set forth in the introductory paragraph of this Agreement.

1.1.18 **“City Code”** means the City of Vancouver Municipal Code.

1.1.19 **“City Council”** means the City of Vancouver elected, governing body vested with the authority of the council-manager form of government for a Washington first class city.

1.1.20 **“City’s Cure Notice”** has the meaning set forth in Section 3.4.4.3.

1.1.21 **“City’s knowledge”** has the meaning set forth in Section 7.2.

1.1.22 **“City Letter”** has the meaning set forth in Section 3.4.1.

1.1.23 **“Closing”** or **“Close”** means, (a) as to any Parcel other than Parcel 3, the execution of the Ground Lease by the Parties and the recording of the Memorandum of Ground Lease for such Parcel, and (b) with respect to Parcel 3, City’s execution, delivery and recordation of the Deed conveying such Parcel to LPC West, and LPC West’s payment of the purchase price therefor. The Parties acknowledge that the Closing with respect to Parcel 3 occurred prior to the Effective Date of this Agreement.

1.1.24 **“Closing Date”** means (a) the date of recording of the Memorandum of Ground Lease for a Parcel other than Parcel 3, and (b) the date of recording of the Deed for Parcel 3, all as further defined in Section 3.6, which Deed recorded on June 25, 2025. **[Parties to confirm date.]**

1.1.25 **“Closing Obligations”** has the meaning set forth in Section 8.3.

1.1.26 **“Code Amendment”** has the meaning set forth in Section 2.2.

1.1.27 **“Code Amendment Deadline”** has the meaning set forth in Section 2.2.

1.1.28 **“Commence construction”** and **“commencement of construction”** have the meanings set forth in Section 5.2.

1.1.29 **“Completion Guaranty”** means a guaranty of completion of vertical improvements on a Parcel given by LPC West to City, the form of which will mirror the form and substance of the completion guaranty provided by LPC West to its construction lender.

1.1.30 **“Completion of construction”** has the meaning set forth in Section 5.3.

1.1.31 **“Component”** means the Improvements planned for development on a particular Parcel.

1.1.32 **“Condition Precedent”** and **“Conditions Precedent”** has the meanings set forth in Section 2.1.3.

1.1.33 **“Contaminated Soils”** has the meaning set forth in Section 3.11.

1.1.34 **“Deed”** has the meaning set forth in Section 3.2.5.1.

1.1.35 **“Deposit”** has the meaning set forth in Section 3.3.1.

1.1.36 **“Design Guidelines”** has the meaning set forth in Section 6.2.4.

1.1.37 **“Development”** means the Property and the Improvements.

1.1.38 **“Due Diligence Period”** has the meaning set forth in the Original DDA.

1.1.39 **“Effective Date”** has the meaning given to it in the first sentence of this Agreement.

1.1.40 **“ENA”** has the meaning given to it in Recital D of this Agreement.

1.1.41 **“Escrow”** means, for each Parcel, the escrow established with the Title Company for the purpose of Closing on such Parcel.

1.1.42 **“Environmental Reports”** has the meaning set forth in Section 7.1.4.

1.1.43 **“Exception”** has the meaning set forth in Section 3.4.2.

1.1.44 **“Force Majeure”** has the meaning set forth in Section 11.6.1.

1.1.45 **“Force Majeure Event”** has the meaning set forth in Section 11.6.1.

1.1.46 **“Gateway Affordable Housing”** has the meaning set forth in Section 6.1.1

1.1.47 **“Gateway Affordable Housing Covenant”** has meaning set forth in Section 6.5.

1.1.48 **“Generator and Well”** has the meaning set forth in Section **Error! Reference source not found..**

1.1.49 **“Ground Lease”** has the meaning set forth in Section 2.3.

1.1.50 “**Hazardous Materials**” means any substance, material, or waste which is: (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste”, “pollutant” or any other terms comparable to the foregoing terms under any provision of Washington law or federal law; (2) petroleum and any fraction thereof; (3) asbestos and asbestos containing materials; (4) polychlorinated biphenyls; (5) radioactive materials; (6) mold; (7) Methyl Tertiary Butyl Ether; or (8) determined by Washington, federal or local governmental authority to be capable of posing a risk of injury to health, safety, property, or the environment. Without limiting the foregoing, Hazardous Materials means and includes any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous, toxic or radioactive substance, or other similar term, by any Hazardous Materials Laws including any federal, state or local environmental statute, regulation or ordinance presently in effect that may be promulgated in the future, as such as statutes, regulations and ordinances may be amended from time to time.

1.1.51 “**Hazardous Materials Laws**” means all federal, state, and local laws, ordinances, regulations, orders and directives governing hazardous waste, hazardous substances, discharges of pollutants to soil or groundwater, wastewater discharges, drinking water, air emissions, Hazardous Materials releases or reporting requirements, Hazardous Materials use, storage or disposal, and employee or community right-to-know requirements related to Hazardous Materials and the work being performed under this Agreement.

1.1.52 “**Improvements**” means the planned redevelopment of the Property, as described in Article 6 of this Agreement, and depicted in the 100% Schematic Design Plans and Drawings, to be attached as Exhibit B. If any conflict exists between this Agreement and the 100% Schematic Design Plans and Drawings, this Agreement will control. There are Improvements contemplated for construction with each Component.

1.1.53 “**Incremental Cost Estimate**” has the meaning set forth in Section 3.11.5.

1.1.54 “**Indemnified Party**” has the meaning set forth in Section 11.8.

1.1.55 “**Indemnifying Party**” has the meaning set forth in Section 11.8.

1.1.56 “**Initial Deposit**” has the meaning set forth in Section 3.3.1.

1.1.57 “**Initial Submittal**” has the meaning set forth in Section 6.2.6.1.

1.1.58 “**Laws**” has the meaning set forth in Section 7.1.6.

1.1.59 “**Legal Lot**” has the meaning set forth in Section 2.1.2.2.

1.1.60 “**LPC West**” has the meaning set forth in the introductory paragraph of this Agreement.

1.1.61 “**LPC West Due Diligence**” has the meaning set forth in the Original DDA.

1.1.62 “**LPC West’s Affiliate**” has the meaning set forth in Section 11.23.1.

1.1.63 “**LPC West’s knowledge**” has the meaning set forth in Section 7.6.

1.1.64 “**LPC West Parties**” has the meaning set forth in Section 7.3.

1.1.65 **"Market Rate Housing"** refers to residential units that are rented or sold at prices determined by the open market, without public subsidies or income restrictions.

1.1.66 **"Market Rate Housing Ratio"** has the meaning set forth in Section 4.1.3.1.

1.1.67 **"MFTE"** has the meaning set forth in Section 6.5.

1.1.68 **"MFTE Projects"** has the meaning set forth in Section 6.5.

1.1.69 **"Mortgage"** means a mortgage or deed of trust against a Parcel recorded in the real property records of the county in which the Parcel is located.

1.1.70 **"Mortgagee"** means the holder of any Mortgage affecting or encumbering a Parcel, or the Ground Lease on any Parcel, together with any successor or assignee of such holder including the first purchaser from Mortgagee if Mortgagee acquires the Parcel at a foreclosure sale or from Mortgagee following a deed in lieu of foreclosure. The term "Mortgagee" shall include any Mortgagee as owner of the Parcel as a result of foreclosure proceedings, or action in lieu thereof, or any insurer or guarantor of any obligation or condition secured by a Mortgage as well as (a) any other person or entity who thereafter obtains title to the Parcel, from or through a Mortgagee or (b) any other purchaser at a foreclosure sale.

1.1.71 **"Must Remove Exceptions"** has the meaning set forth in Section 3.4.4.2.

1.1.72 **"NAYFC"** has the meaning set forth in Recital G.

1.1.73 **"New Exception"** has the meaning set forth in Section 3.4.4.1.

1.1.74 **"Open Space"** has the meaning set forth in Section 6.1.4.

1.1.75 **"Original DDA"** has the meaning set forth in Recital I.

1.1.76 **"Parcel"** and **"Parcels"** have the meanings given to them in Recital E.

1.1.77 **"Parcel 1"** means the Parcel legally described on Exhibit A-3-1 and depicted on Exhibit A-3-2.

1.1.78 **"Parcel 2"** means the parcel identified as "Parcel 2" on Exhibit A-2.

1.1.79 **"Parcel 3"** and **"Affordable Housing Parcel"** mean the parcel identified as "Parcel 3" on Exhibit A-2.

1.1.80 **"Parcel 3 Transferee"** has the meaning set forth in Section 3.2.4.

1.1.81 **"Parcel 4"** means the parcel identified as "Parcel 4" on Exhibit A-2.

1.1.82 **"Parcel 5"** means the parcel identified as "Parcel 5" on Exhibit A-2.

1.1.83 **"Parcel-Specific New Exception"** has the meaning set forth in Section **Error! Reference source not found.**

1.1.84 **“Parcel-Specific Survey”** has the meaning set forth in Section **Error! Reference source not found..**

1.1.85 **“Parcel-Specific Title Commitment”** has the meaning set forth in Section **Error! Reference source not found..**

1.1.86 **“Parcel-Specific Title Exam Deadline”** has the meaning set forth in Section **Error! Reference source not found..**

1.1.87 **“Party”** and **“Parties”** has the meaning set forth in the introductory paragraph of this Agreement.

1.1.88 **“Permitted Exceptions”** has the meaning given to it in Section 3.7

1.1.89 **“Phase 1”** means Parcels 2, 4 and 5 of the Waterfront Gateway Project and, through this Amended and Restated Agreement, is now the only phase identified as it intentionally includes all of the Property subject to development by LPC West under this Agreement.

1.1.90 **“Phase 1 Closing Date”** has the meaning given to it in Section 3.6.1.

1.1.91 **“Phase 1 Outside Closing Date”** has the meaning given to it in Section 3.6.1.

1.1.92 **“Property”** has the meaning set forth in Recital A.

1.1.93 **“Property Information”** has the meaning set forth in Section 2.4.1.

1.1.94 **“RCW”** means the Revised Code of Washington.

1.1.95 **“Released Parties”** has the meaning set forth in Section 3.8.4.

1.1.96 **“Remaining Deposit”** has the meaning set forth in Section 3.3.3.

1.1.97 **“Remediation Plan”** has the meaning set forth in Section 3.11.1.

1.1.98 **“Required Completion Date”** has the meaning set forth in Section 5.3.

1.1.99 **“RFQ”** has the meaning set forth in Recital C.

1.1.100 **“Schedule of Performance”** means the schedule attached to this Agreement as Exhibit C, which contains actions to be taken by the Parties pursuant to this Agreement to achieve the ground leasing and conveyance of the Parcels to LPC West and the development of the Components of the Improvements on the Property. The Schedule of Performance is subject to Force Majeure.

1.1.101 **“Survey”** has the meaning set forth in Section 3.4.1.

1.1.102 **“Survival Period”** has the meaning set forth in Section 7.3.

1.1.103 **“Title Affidavit”** has the meaning set forth in Section 3.4.5.

1.1.104 **“Title Commitment”** has the meaning set forth in Section 3.4.1.

1.1.105 **“Title Company”** means the Vancouver, Washington office of Chicago Title/Fidelity National Title at 655 West Columbia Way, Suite 200, Vancouver, Washington 98660.

1.1.106 **“Title Exam Deadline”** has the meaning set forth in Section 3.4.3.

1.1.107 **“Title Policy”** has the meaning set forth in Section 2.1.2.7(i).

1.1.108 **“Title Update”** has the meaning set forth in Section 3.4.4.1.

1.1.109 **“Updated Title Exam Deadline”** has the meaning set forth in Section 3.4.4.1.

1.2 Exhibits and Schedules. The following exhibits and schedules are attached to and incorporated in the Agreement:

Exhibit A-1:	Legal Description of the Property
Exhibit A-2:	Depiction of the Parcels
Exhibit A-3-1:	Legal Description of Parcel 1
Exhibit A-3-2:	Depiction of Parcel 1
Exhibit B:	100% Schematic Design Plans and Drawings
Exhibit C:	Schedule of Performance
Schedule 2.1.1.4:	Form of Ground Lease
Schedule 2.4.5:	Final Legal Lot Configuration
Schedule 3.2.4.1:	Form of Deed
Schedule 3.2.4.2:	Form of Assignment of Intangibles
Schedule 4.1.3.3:	Ground Lease - Discounted Rent
Schedule 6.2.1:	Green Building Measures
Schedule 6.2.3:	Workforce and Business Development Strategy
Schedule 6.2.4:	Design Guidelines
Schedule 6.2.6:	Open Space
Schedule 6.2.7:	Small Business Outreach and Marketing Plan
Schedule 6.2.9:	Tree Plan
Schedule 7.1.4:	Environmental Reports

## **ARTICLE 2. PREDISPOSITION REQUIREMENTS**

2.1 Conditions Precedent.

2.1.1 City’s Conditions Precedent to Obligation to Ground Lease or Convey a Parcel. Notwithstanding anything in this Agreement to the contrary, City’s obligation to Close on any Parcel is subject to and contingent upon the satisfaction or waiver, as provided in Section 2.1.3, of the following Conditions Precedent, which are solely for the benefit of City:

2.1.1.1 *Initial Ground Lease Rent.* LPC West shall have deposited in Escrow any rent due at Closing pursuant to the Ground Lease for the relevant Parcel.

2.1.1.2 *Pre-Application Conference.* LPC West shall have held a pre-application conference with City to discuss the Component to be developed on the Parcel.

2.1.1.3 *No Default.* LPC West shall not be in default of its obligations under this Agreement in any material respect and beyond any applicable cure period.

2.1.1.4 *City Council Approval of Ground Lease and Finalization of each Individual Ground Lease.* Prior to Closing, City shall have approved each separate Ground Lease with respect to each Parcel, which shall be based on the form of Ground Lease attached to this Agreement as *Schedule 2.1.1.4*. The Parties understand and acknowledge that each Ground Lease entered into at Closing may include slightly different provisions, with such provisions related to distinctive characteristics or circumstances of the Parcel or Component of the Improvements to be developed on the Parcel.

2.1.1.5 *Representations and Warranties.* All representations and warranties of LPC West contained in any part of this Agreement shall be true and correct in all material respects as of the Closing Date.

2.1.1.6 *Closing Documents.* LPC West shall have delivered to Escrow duly executed copies of the following documents related to the Closing for the relevant Parcel:

- (i) Ground Lease for each of Parcels 2, 4 and 5;
- (ii) Memorandum of Ground Lease in recordable form for each of Parcels 2, 4 and 5;
- (iii) The Completion Guaranty;
- (iv) Such other documents as the Title Company may reasonably request to issue the Title Policy for the relevant Parcel; and
- (v) Such other documents as may be reasonably required to effectuate the Closing of the Ground Lease or Purchase of a Parcel pursuant to this Agreement.

2.1.1.7 *No Litigation.* There is no pending claim, dispute, or litigation that prevents or is likely to prevent City from performing its obligations under this Agreement; *provided, however*, that a pending claim, dispute, or litigation arising from an event that constitutes a material breach of this Agreement by City shall not excuse the performance by City and shall not be a reason this Condition Precedent is unsatisfied.

2.1.1.8 *Financing.* LPC West shall have provided City with evidence or documentation that LPC West has secured such equity or debt financing as is sufficient to develop and construct the Improvements on the Parcel or Parcels that are the subject of the applicable Closing.

2.1.1.9 *Recording of Access Easements.* The Access Easements have been recorded against the Parcel or Parcels that are the subject of the Closing.

2.1.2 Conditions Precedent to LPC West's Obligation to Close on a Parcel. Notwithstanding anything in this Agreement to the contrary, LPC West's obligation to Close on any Parcel is subject to and contingent upon the satisfaction or waiver, as provided in Section 2.1.3, of the following Conditions Precedent, which are solely for the benefit of LPC West:

2.1.2.1 *No Default.* City shall not be in default of its obligations under this Agreement in any material respect and beyond any applicable cure period.

2.1.2.2 *Legal Lots.*

(i) Prior to the Effective Date, City completed a boundary line adjustment, which created each Parcel as a separate unit of land complying with all requirements of state and local law to be considered a legal lot capable of being separately ground leased or conveyed, as applicable, and developed, all in accordance with Section 2.4.5 below (each a “**Legal Lot**”). The approval or approvals so creating the Parcel as a Legal Lot are final and unappealable.

(ii) LPC West needs to confirm that the boundary lines of each Legal Lot conform to the newly anticipated 100% Schematic Design Plans and Drawings and the vertical development to be built on each such Legal Lot, which determination LPC West will make by the time it submits the 100% Schematic Design Plans and Drawings to the City for review and approval in accordance with this Agreement. If LPC West determines that it needs to adjust the boundary lines of one or more Legal Lots, then LPC West, at no cost to City, will complete such work by the Phase 1 Outside Closing Date.

2.1.2.3 *Financing.* LPC West has secured to its satisfaction, as determined in its sole and absolute discretion, such equity or debt financing as is sufficient to develop and construct the Improvements on the Parcel or Parcels that are the subject of the applicable Closing.

2.1.2.4 *Permits and Approvals.* LPC West shall have received (or have ready to issue, subject only to the payment of fees) all final, non-appealable governmental approvals necessary for the development of the Component on the Parcel, including any necessary or desirable permits, licenses, permissions, consents, land use approvals, building permits, encroachment permits, plats, variances, conditional use requests, local improvement district approvals, and other approvals (collectively, the “**Approvals**”). City hereby grants to LPC West the right, and in City’s name as owner of the Property if so required, to, among other things, (a) enter into discussions and negotiations regarding the Property with all governmental authorities, and (b) apply for, prosecute, participate in, and cause to be issued and finally approved any and all Approvals. City agrees to reasonably cooperate with LPC West in seeking all such Approvals for the Improvements, including that City agrees, as owner of the Property, to sign any application form reasonably necessary to obtain the Approvals.

2.1.2.5 *Representations and Warranties.* All representations and warranties of City contained in any part of this Agreement shall be true and correct in all material respects as of the Closing Date.

2.1.2.6 *Closing Documents.* City shall have delivered to Escrow duly executed copies of the following documents for the relevant Parcel:

- (i) Ground Lease for each of Parcels 2, 4 and 5;
- (ii) Memorandum of Ground Lease in recordable form for each of Parcels 2, 4 and 5;
- (iii) Such affidavits and other documents as the Title company may reasonably request to issue the Title Policy for the relevant Parcel;

(iv) Such other documents as may be reasonably required to effectuate the applicable Closing.

2.1.2.7 *Title Matters.*

(i) Title Company shall be irrevocably committed to issue, in the case of the ground leased Parcels, an ALTA Extended Coverage Leasehold Owner's Policy of Title Insurance to LPC West for insuring LPC West's leasehold interest in the Parcel, and the cost of the relevant Component of the Improvements, and showing fee simple title to the Property vested in City, subject only to the Permitted Exceptions, and containing such endorsements as are required by LPC West or its lenders (the "**Title Policy**"). Any commitment for a loan policy in connection with a Closing shall be acceptable both to LPC West and to any lender that will provide financing for the Closing or for development of the Component on the Parcel.

(ii) City has terminated all easements, leases, licenses, and agreements related to the relevant Parcel, including parking easements, leases, licenses, and agreements, except to the extent that any of the foregoing are Permitted Exceptions.

2.1.2.8 *No Litigation.* There is no pending claim, dispute, or litigation that prevents or is likely to prevent LPC West from performing its obligations under this Agreement; *provided, however*, that a pending claim, dispute, or litigation arising from an event that constitutes a material breach of this Agreement by LPC West shall not excuse the performance by LPC West and shall not be a reason this Condition Precedent is unsatisfied.

2.1.2.9 *Material Adverse Change.* No material adverse change in the physical or legal condition of the Parcel has occurred or been discovered between the Effective Date and the Closing Date.

2.1.2.10 *Recording of Access Easements on all Parcels.* The Access Easements have been recorded against the Parcel or Parcels that are the subject of the Closing.

2.1.3 Failure or Waiver of Conditions Precedent. Notwithstanding anything to the contrary set forth in this Agreement, neither City nor LPC West is obligated to proceed with the lease of any Parcel to LPC West unless the conditions set forth in this Section 2.1.3 (each, a "**Condition Precedent**," and collectively, the "**Conditions Precedent**") are satisfied or waived in writing by the benefitted Party prior to the Closing Date. Conditions Precedent for a Parcel shall be automatically deemed satisfied or waived upon the Parties' execution and recordation of the Memorandum of Ground Lease for a Parcel, even if a Party has not notified the other Party in writing of such satisfaction or waiver.

2.1.3.1 Elections upon Non-Satisfaction of Conditions. If any Condition Precedent is not fulfilled to the satisfaction of the benefitted Party as of the applicable Closing Date, then such benefitted Party may elect to:

(i) Terminate this Agreement in its entirety or only as to the Parcels that are the subject of the applicable Closing, by and effective upon written notice to the other Party;

(ii) Waive in writing the benefit of that Condition Precedent and proceed in accordance with the terms of this Agreement; or

(iii) Designate in writing a later date for the applicable Closing or Closings, to allow additional time for the condition to be satisfied, if the condition can be satisfied with additional time and the other Party agrees in writing to the later date. Notwithstanding the foregoing, if any of the Conditions Precedent set forth in Sections 2.1.2.1 (No Default), 2.1.2.2 (Legal Lot), 2.1.2.6 (Closing Documents), 2.1.2.7 (Title Matters), 2.1.2.8 (No Litigation), or 2.1.2.10 (Recording of Access Easements on all Parcels) is not satisfied at a Closing, then LPC West may grant City additional time to satisfy such Condition(s) Precedent and allow for a later Closing by delivering written notice of such election prior to the Closing Date, in which event the both the Closing Date and the time period for commencement of construction under the Schedule of Performance for such Parcel or Parcels shall be increased by one day for each day of delay in City's satisfaction of the applicable Condition(s) Precedent.

2.1.3.2 Effect of Termination for Non-Satisfaction of Conditions Precedent to Closing. If this Agreement terminates or is terminated for non-satisfaction of the Conditions Precedent to Closing and neither Party is in default under this Agreement pursuant to Article 8, then all rights and obligations of the Parties under this Agreement applicable to the Parcel or Parcels designated in the written notice shall terminate, other than: (a) City's obligation to refund to LPC West the Deposit; and (b) the obligation to cooperate in preparing, executing, and recording such documents as may be necessary or desirable to reflect the termination, or partial termination, of this Agreement as to all or some of the Parcels of the Property, in the real property records of the county in which the Property is located. If a Party is in default under this Agreement on the date this Agreement terminates or is partially terminated for non-satisfaction of the conditions precedent to a Closing, then the rights and remedies accruing to the other Party under this Agreement as a result of such default shall survive termination of this Agreement.

2.2 City Code Amendment. City has committed to promptly and diligently pursue an amendment to City Code allowing for the construction of six (6) story wood frame construction projects within the City, including on the Property and for the MFTE Projects (the "**Code Amendment**"). If City has achieved a final and non-appealable Code Amendment by the date that is one hundred eighty days (180) from the Effective Date (the "**Code Amendment Deadline**"), then LPC West shall proceed with 100% Schematic Design Plans and Drawings based on six (6) story buildings for the MFTE Projects. If City has not achieved a final and non-appealable Code Amendment by the Code Amendment Deadline, then LPC West, at its election, may proceed with 100% Schematic Design Plans and Drawings based on five (5) story buildings for the MFTE Projects.

2.3 Ground Lease Negotiations. LPC West and the City have agreed on the form of ground lease for each of Parcels 2, 4, and 5 (each, a "**Ground Lease**"), which form of Ground Lease is attached to this Agreement as *Schedule 2.1.1.4*. The Parties agree that the Ground Lease for each Parcel shall be in substantially the form approved by City Council but may have differences, including provisions related to distinctive characteristics or circumstances of the Parcel or Component to be developed on the Parcel.

2.4 LPC West Due Diligence Contingency.

2.4.1 Property Information. The City has delivered to LPC West all information, documentation, and reports in City's possession or control pertaining to the Property, including, without limitation, the following (collectively, the "**Property Information**"): (a) all plans, drawings, specifications, soils reports, engineering and architectural studies, zoning studies or reports, hazardous waste studies, geotechnical and seismic reports, soils reports, archeological studies, hydrology reports, wetland studies, topographical maps, boundary and ALTA surveys, environmental reports, traffic or other transportation studies, grading plans, and any other reports, studies, investigations, or other analyses relating to the Property; (b) copies

of all contracts and agreements between City and City's consultants relating to the materials addressed in subsection (a); (c) all permits, entitlement documents, zoning agreements, agreements with any governmental entities, and notices from governmental entities, for the Property, and all correspondence related thereto; (d) any agreements affecting the Property; (e) property tax bills and any notices of tax assessments for the past five (5) years; and (f) any other documents reasonably related to development of the Improvements that LPC West reasonably requested during the Due Diligence Period.

2.4.2 LPC West Due Diligence Contingency. Except as expressly set forth in Section 3.4 of this Agreement, LPC West conducted and completed its due diligence of the Property prior to the expiration of the Due Diligence Period.

2.4.3 Access. LPC West may enter the Property at any time between the Effective Date and the Closing Date for a Parcel in accordance with the terms hereof and the City shall ensure unfettered physical access to the Property. LPC West shall obtain City's prior written consent to any invasive testing, which consent shall not be unreasonably withheld, conditioned or delayed. LPC West shall be solely responsible for all costs of inspections and shall restore the Property to the same condition it was in prior to inspection or to a better condition. LPC West agrees to indemnify and defend City from all liens, costs, claims, and expenses, including attorneys' fees and experts' fees, arising from or relating to entry onto or inspection of the Property by LPC West, its agents, and representatives. This obligation to indemnify and defend City shall survive Closing or termination of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, LPC West shall have no liability or responsibility for any claim, costs (including attorney fees), loss, or liability arising out of or to the extent related to (a) pre-existing conditions on, at, under, or around the Property, or (b) the negligence or intentional acts of City or its agents, employees, or contractors.

2.4.4 Due Diligence Period; LPC West Satisfaction. LPC West timely delivered to the City notice that the LPC West Due Diligence was acceptable to LPC West other than items that remain outstanding under the express terms of Section 3.4 of this Agreement.

2.4.5 Legal Descriptions of Parcels. The legal descriptions of the Parcels, each of which is a Legal Lot, are attached hereto as Exhibit A-1.

### **ARTICLE 3. DISPOSITION OF PROPERTY**

#### **3.1 Ground Leases; Construction and Staging Easement.**

3.1.1 Provided the Conditions Precedent in Article 2 have all been satisfied or waived by the applicable benefited Party, City shall ground lease to LPC West, and the LPC West shall ground lease from City, Parcels 2, 4 and 5 of the Property pursuant to a Ground Lease for each such Parcel.

3.1.2 Simultaneously with entering into the Ground Leases with respect to Parcels 2, 4, and 5, and as a condition thereof, the City shall grant to LPC West temporary construction licenses and easements over City property, as reasonably necessary for LPC West to construct Improvements on Parcels 2, 4, and 5. Such licenses and easements shall be in a form reasonably satisfactory to both the City and LPC West and shall include: (a) temporary licenses for construction staging and trailers; (b) easements to support construction cranes, including over City rights of way, once crane locations and the radii of crane jibs have been determined by LPC West; and (c) the right of access over and across City property, adjacent to and abutting the Property.

3.2 Conveyance. The City conveyed Parcel 3 NAYFC on or before the Phase 1 Closing Date, all on the terms and conditions set forth in this Section 3.2 and elsewhere in this Agreement.

3.2.1 Provided that Parcel 3 is used as Affordable Housing and that the conveyance complies with RCW 39.33.015 in all other respects, the purchase price for Parcel 3 is \$1.00 which was paid in cash on the Closing Date.

3.2.2 The conveyance of Parcel 3 by City included the land comprising the Parcel, together with: (a) all rights, privileges, licenses, and easements appurtenant to the land owned by City, including, without limitation, all minerals, oil, and gas on and under the land, as well as development rights, air rights, and water rights related to the land, and any other easements, private rights-of-way, or appurtenances used in connection with the beneficial use and enjoyment of the land; (b) all improvements, equipment, fixtures or other personal property of every kind located on the land, if any; and (c) any and all permits, warranties, development rights, intangible property and any other similar personal property assets owned by City with respect to the land and the improvements thereon.

3.2.3 City conveyed Parcel 3 pursuant to the Deed, subject only to the Permitted Exceptions and an affordable housing covenant ("**Affordable Housing Covenant**") no less than 50 years in duration together with such other terms and conditions are reasonably required to comply with RCW 39.33.015. City delivered possession of Parcel 3 concurrently with the conveyance of title.

3.2.4 The Deed included a right of reversion in favor of the City which could have been triggered by LPC West's (a) conveyance of Parcel 3 to a third party (or an entity in which LPC West is a partner or member) (in each case, a "**Parcel 3 Transferee**") for a purchase price in excess of \$1.00, or (b) failure to commence construction within ninety (90) days following recordation of the Deed. The right of reversion is now null and void. Notwithstanding the foregoing, LPC West was entitled to reimbursement from the Parcel 3 Transferee of any and all out of pocket costs incurred in connection with the acquisition, due diligence, entitlement, and development of Parcel 3; provided, in no event was LPC West entitled to receive more from the Parcel 3 Transferee than Parcel 3's pro rata share of LPC West's aggregate out of pocket costs incurred in connection with the acquisition, due diligence, entitlement, and development of Parcels 2, 3, 4 and 5, together with any out of pocket costs incurred by LPC West solely with respect to Parcel 3.

3.2.5 City delivered to Escrow the following funds and duly executed copies of the following documents on or before the Closing Date:

3.2.5.1 An original bargain and sale deed in the form attached hereto as Schedule 3.2.4.1 (the "**Deed**") and a Real Estate Excise Tax Affidavit with the Deed notarized;

3.2.5.2 An original Assignment of Intangibles, substantially in the form attached hereto Schedule 3.2.4.2;

3.2.5.3 An original non-foreign affidavit in compliance with Internal Revenue Code section 1445 and the Washington equivalent, if any;

3.2.5.4 Such funds by wire transfer, if any, as are necessary to pay City's share of closing costs and prorations;

3.2.5.5 Such affidavits and other documents as the Title Company may reasonably request to issue the Title Policy for Parcel 3; and

3.2.5.6 Such documents as the Escrow may require to establish the authority of City to complete the sale of Parcel 3 and to otherwise effectuate the transfer of Parcel 3 to LPC West or the Parcel 3 Transferee.

3.2.6 On or before the Closing Date, LPC West or the Parcel 3 Transferee delivered to Escrow the following:

3.2.6.1 Such funds (by wire transfer) as are necessary to complete the payment of the Parcel 3 purchase price and to pay LPC West's share of closing costs and prorations; and

3.2.6.2 Such documents as the Escrow may require to establish the authority of LPC West or the Parcel 3 Transferee to complete the purchase of Parcel 3 and to otherwise effectuate the transfer of Parcel 3 to LPC West or the Parcel 3 Transferee.

### 3.3 Deposit.

3.3.1 Prior to the Effective Date, LPC West deposited with CCRA, for the benefit of City, the sum of One Hundred Thousand Dollars (\$100,000.00) as ENA fees, which funds shall be considered the "**Initial Deposit**" for purposes of this Agreement. Within three (3) Business Days following the Effective Date, LPC West shall deposit an additional amount equal to One Hundred Fifty Thousand Dollars (\$150,000.00) with Title Company, acting in its capacity as escrow agent (the "**Additional Deposit**" and together with the Initial Deposit, the "**Deposit**").

3.3.2 Upon (a) the expiration of the Due Diligence Period, (b) and the agreement of the Parties on the form of Ground Lease and Remediation Plan pursuant to Sections 2.3 and 3.11 respectively, and (c) the approval of the public Open Space design pursuant to Section 6.2.6 (the "**Contingency Deadline**"), and subject to Section 3.4.4.5, unless LPC West shall have terminated or shall be deemed to have terminated this Agreement, the Deposit shall be fully earned by City and shall be non-refundable to LPC West except as expressly set forth in this Agreement. If LPC West elects to or is deemed to have elected to terminate this Agreement prior to the Contingency Deadline, the Deposit shall be immediately refunded to LPC West, and the Parties shall owe each other no obligations except for those that expressly by their terms survive the termination of this Agreement.

3.3.3 At the first Closing on a Parcel or Parcels, except as provided below, an amount equal to the Initial Deposit shall be applied to the rent under any of the executed Ground Leases selected by LPC West and shall thereafter be governed by the terms and conditions of such Ground Lease. Once the Initial Deposit has been applied to rent under a Ground Lease, it shall no longer be refundable regardless of any provision of this Agreement to the contrary. The remainder of the Deposit ("**Remaining Deposit**") shall apply to the rent due under the last Ground Lease for any Parcel.

### 3.4 Title and Survey.

3.4.1 Initial Title Examination. Prior to the Effective Date, the Parties have preliminarily reviewed title and survey documents for the Property, and LPC West delivered a title objection letter to City dated August 2, 2022. City provided an initial response to LPC West's title objection letter on November 15, 2022 (the "**City Letter**"), which addressed some but not all title matters.

3.4.2 Parcel-Specific Examination. Within ten (10) Business Days of the Effective Date, City shall deliver or cause to be delivered to LPC West an updated preliminary leasehold report for each Parcel (each, a “**Parcel-Specific Title Commitment**”) from Title Company, and, to the extent available, a legible copy of each document referenced in the Parcel-Specific Title Commitment as an exception to title (each, an “**Exception**”). LPC West, at its cost, may obtain an updated ALTA survey of each Parcel (each, a “**Parcel-Specific Survey**”) within forty-five (45) days after receipt of the Parcel-Specific Title Commitment. LPC West shall have until the date (the “**Parcel-Specific Title Exam Deadline**”) which is fifteen (15) Business Days after LPC West’s receipt of such Parcel-Specific Title Commitment and a Parcel Specific Survey (the “**Title Exam Deadline**”), to notify City in writing of LPC West’s objections to any matters shown in the Parcel-Specific Title Commitment, the Parcel Specific Survey, or both (“**LPC Title/Survey Notice**”). Any item(s) contained in a Parcel-Specific Title Commitment or on the Parcel Specific Survey to which LPC West does not timely object prior to the applicable Parcel-Specific Title Exam Deadline shall be automatically and irrevocably deemed a Permitted Exception unless such item constitutes a Must Remove Exception.

3.4.3 Approval. City shall have ten (10) days following receipt of the LPC Title/Survey Notice to determine whether City intends to address or resolve such objections and shall notify LPC West of such determination within such 10-day period (“**City Title/Survey Notice**”). LPC West shall have fifteen (15) days following receipt of the City Title/Survey Notice to elect to terminate the Agreement and receive the return of the Deposit. If LPC West fails to terminate the Agreement in accordance with the preceding sentence, any item(s) contained in the Title Commitment and on the Survey which City has not elected to address or resolve in accordance with the City Title/Survey Notice shall be automatically and irrevocably be deemed a Permitted Exception unless such item constitutes a Must Remove Exception.

3.4.4 Title Update; Title Objections; Cure of Title Objections.

3.4.4.1 If, following the Title Exam Deadline, any Parcel-Specific Title Commitment for the is revised (each, a “**Title Update**”) due to a further boundary line adjustment as contemplated by Section 2.1.2.2 above or to disclose an Exception that was not on the applicable Parcel-Specific Title Commitment or any earlier Title Update, or if the Title Company reduces coverage in any way or refuses to issue any endorsement (each, a “**New Exception**”), LPC West shall have until the date (the “**Updated Title Exam Deadline**”) which is fifteen (15) Business Days after LPC West’s receipt of such Title Update, to notify City in writing of LPC West’s objections to any matters shown in the Title Update. Any item(s) contained in a Title Update to which LPC West does not timely object prior to the applicable Updated Title Exam Deadline shall be automatically and irrevocably deemed a Permitted Exception unless such item constitutes a Must Remove Exception.

3.4.4.2 City agrees that any of the following shown on any Parcel-Specific Title Commitment or any Title Update shall not constitute Permitted Exceptions and shall be cured or removed by City on or prior to Closing for any Parcel regardless of whether objected to by LPC West as provided above: (a) any judgment liens against City; (b) any mechanics liens for work performed or requested by or on behalf of City; (d) any other monetary encumbrances which can be satisfied and released by the payment of money; and (e) any Exception created voluntarily by City after the effective date of the Title Commitment, unless LPC West has approved of such Exception in writing (collectively, the “**Must Remove Exceptions**”).

3.4.4.3 If LPC West shall timely notify City of objections to Exceptions shown in any Parcel-Title Commitment, any Parcel-Specific Survey, or any Title Update prior to the applicable deadline, City shall have the right, but not the obligation, to cure such objections. Within thirty (30) days after

receipt of the applicable notice of objections from LPC West (whether to the Parcel-Specific Title Commitment, Parcel-Specific Survey, or any Title Update), City shall notify LPC West in writing whether City elects to attempt to cure any or all of such objections (the “**City’s Cure Notice**”). If City elects to cure, City shall have until the applicable Closing Date to remove, satisfy, or cure the same. Any exception objected to by LPC West shall be deemed cured if it is removed as an exception in the Title Policy for the relevant Parcel or Parcels (including, through the posting of a bond) or if Title Company issues an endorsement insuring over such exception in a form reasonably acceptable to LPC West, which benefits not only LPC West but its successor and assigns who acquire an interest in such Parcel or Parcels.

3.4.4.4 If City: (a) elects not to cure any matters properly objected to by LPC West in accordance with this Section 3.4.4; (b) is unable to effect a cure of those objections which it elected to cure prior to the Closing and so notifies LPC West in writing; or (c) fails to respond to LPC West’s notice within said thirty (30) day period (which shall be deemed City’s election to not cure), then LPC West shall have the following options to be exercised by LPC West in its sole and absolute discretion: (x) to ground lease the Parcel or Parcels subject to the those uncured objections, in which case such uncured objections shall be automatically and irrevocably deemed a Permitted Exception unless such item constitutes a Must Remove Exception, or (y) to terminate (or partially terminate) this Agreement as to one or more Parcels by sending written notice thereof to City, and upon delivery of such notice of termination, this Agreement shall terminate as to that Parcel or Parcels, and thereafter neither Party hereto shall have any further rights, obligations, or liabilities hereunder related to that Parcel or Parcels, except to the extent that any right, obligation, or liability set forth herein expressly survives termination of this Agreement.

3.4.4.5 Within five (5) Business Days after receipt of City’s Cure Notice (or if no notice is given, within five (5) Business Days after expiration of the five (5) day period for City to provide the City’s Cure Notice) LPC West shall notify City in writing whether LPC West shall elect to accept the conveyance under clause (x) or to terminate this Agreement under clause (y) of Section 3.4.4.4 above. LPC West’s failure to notify City of termination of this Agreement within such five (5) Business Day period shall be deemed to be an election under clause (y) of Section 3.4.4.4 above to terminate this Agreement as to the Parcel or Parcels affected by the relevant exception to title. Within two (2) Business Days of any such termination or deemed termination, the Deposit shall be returned to LPC West.

3.4.5 Title Policy. City agrees to execute an owner’s affidavit (“**Title Affidavit**”) in such form as the Title Company shall require for the issuance of the Title Policy. At Closing, the Title Company shall issue to LPC West the Title Policy, provided that City shall not be required to cure any title exceptions or incur any liability in connection with the issuance of such policy (other than in connection with the execution of the Title Affidavit as set forth above) unless expressly required by this Agreement or unless City elects to cure under this Section 3.4.

### 3.5 Covenants of City Prior to Closings.

3.5.1 As to each Parcel, during the period from the Effective Date until the earlier of (a) the Closing or (b) the termination of this Agreement, City shall, in addition to the covenants set forth elsewhere in this Agreement:

3.5.1.1 Take such actions as are required to cause each Parcel to be a separate Legal Lot;

3.5.1.2 Maintain existing levels and types of liability insurance coverage for each Parcel, including through City’s self-insurance program;

3.5.1.3 Not permit or suffer to exist any encumbrance, charge, or lien to be placed or claimed upon any Parcel unless such encumbrance, charge, or lien has been approved in writing by LPC West;

3.5.1.4 Cause all leases, tenancies, and other occupancy agreements existing as of the Effective Date related to any portion of the Property to be terminated as of the Closing Date for the relevant Parcel;

3.5.1.5 Not enter into any new contracts, leases, or other occupancy agreements affecting the Property which will extend past the Closing Date for the relevant Parcel, or amend any current contracts, leases, or occupancy agreements affecting the Property, without the prior written consent of LPC West, which consent may be withheld in LPC West's sole and absolute discretion;

3.5.1.6 Maintain the Property and keep the Property in substantially the same condition on the Closing Date for each Parcel as on the Effective Date, normal wear and tear and casualty or condemnation excepted;

3.5.1.7 Not sell, mortgage, pledge, hypothecate, or otherwise transfer or dispose of all or any part of the Property or any interest therein;

3.5.1.8 Not enter into or solicit any agreement granting to any persons or entity any option or other right to purchase or ground lease the Property or any portion thereof;

3.5.1.9 Not voluntarily take any action that will render any of the representations of City set forth in Section 7.1 untrue in any material respect;

3.5.1.10 Comply with all laws applicable to the Property, or the use or occupancy thereof, or any operations or activities therein or thereon;

3.5.1.11 Comply with all existing permits, licenses, and approvals required for the use and occupancy of, and all operations activities on, the Property, and keep all such permits, licenses, and approvals in full force and effect; and

3.5.1.12 Not take any other action which would violate any laws applicable to the Property, or which would have an adverse effect upon the Property, or upon LPC West after Closing on any Parcel.

### 3.6 Closing Dates.

3.6.1 The Closing for Parcels 2, 4 and 5 shall occur collectively and simultaneously on a date mutually selected by the Parties in writing (the "**Phase 1 Closing Date**"), but in no event later than the outside date set forth in the Schedule of Performance (the "**Phase 1 Outside Closing Date**"). In the event of failure of the Condition Precedent related to financing set forth in Section 2.1.2.3, LPC West may extend the Phase 1 Outside Closing Date for a period of up to ninety (90) days, provided that prior to the Phase 1 Outside Closing Date, LPC West has given written notice to City of the need for the extension and the desired length of time of the extension, and has made at least three (3) attempts to schedule a meeting with the City of Vancouver Director of Economic Prosperity and Housing to discuss LPC West's efforts to obtain equity and debt financing and the challenges therewith. Prior to the expiration of the extended Phase 1 Outside Closing Date, City agrees to negotiate in good faith to further extend the Phase 1 Outside

Closing Date to allow for the Condition Precedent related to financing set forth in Section 2.1.2.3 to be met. Additionally, the Phase 1 Outside Closing Date shall be extended as set forth in Section 2.1.3.1(iii), as a result of failure of one or more Conditions Precedent, other than the Condition Precedent set forth in Section 2.1.2.3.

3.7 Condition of Title. On the Closing Date, City shall deliver possession of the relevant Parcel to LPC West subject only to the following (the “**Permitted Exceptions**”):

3.7.1 applicable building and zoning laws and regulations;

3.7.2 items deemed a Permitted Exception pursuant to the title review processes in Section 3.4 above; and

3.7.3 any documents which are required by this Agreement to be recorded, including the Memorandum of Lease for each of Parcels 2, 4 and 5.

3.8 Condition of Property.

3.8.1 “AS IS” CONVEYANCE. LPC WEST SPECIFICALLY ACKNOWLEDGES AND AGREES THAT IT IS GROUND LEASING EACH PARCEL ON AN “AS IS WITH ALL FAULTS” BASIS AND THAT LPC WEST IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY AS TO ANY MATTERS CONCERNING THE PROPERTY, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 7.1 AND THE RIGHT TO REIMBURSEMENT PURSUANT TO SECTION 3.11 AND THOSE IN THE GROUND LEASE FOR A PARCEL, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS, AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY, AND GROUNDWATER; (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF UTILITIES SERVING THE PROPERTY; (D) THE DEVELOPMENT POTENTIAL OF THE PROPERTY, AND THE PROPERTY’S USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE, OR ADEQUACY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE; (E) THE ZONING OR OTHER LEGAL STATUS OF THE PROPERTY OR ANY OTHER PUBLIC OR PRIVATE RESTRICTIONS ON THE USE OF THE PROPERTY; (F) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS, AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY; (G) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS IN, ON, AT, UNDER, OR ABOUT THE PROPERTY OR THE ADJOINING OR NEIGHBORING PROPERTY; AND (H) THE CONDITION OF TITLE TO THE PROPERTY. LPC WEST AFFIRMS THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF CITY IN THIS AGREEMENT AND THOSE IN THE GROUND LEASE FOR A PARCEL, LPC WEST HAS NOT RELIED ON THE SKILL OR JUDGMENT OF CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES, OR CONTRACTORS TO SELECT OR FURNISH THE PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT CITY MAKES NO WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF CITY IN THIS AGREEMENT AND THOSE IN THE GROUND LEASE FOR A PARCEL, LPC WEST ACKNOWLEDGES THAT IT SHALL USE ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE PROPERTY AND SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC, AND LEGAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, WHETHER THE PROPERTY IS LOCATED

IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA, OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). LPC WEST UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE PROPERTY'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA, OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LPC WEST HEREBY EXPRESSLY WAIVES, RELEASES AND RELINQUISHES ANY AND ALL CLAIMS, CAUSES OF ACTION, RIGHTS AND REMEDIES LPC WEST MAY NOW OR HEREAFTER HAVE AGAINST CITY, ITS EMPLOYEES OR MEMBERS OF ITS CITY COUNCIL, WHETHER KNOWN OR UNKNOWN, UNDER ANY ENVIRONMENTAL LAW(S), OR COMMON LAW, IN EQUITY OR OTHERWISE, WITH RESPECT TO (1) ANY PAST, PRESENT OR FUTURE PRESENCE OR EXISTENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE PROPERTY (INCLUDING IN THE GROUNDWATER UNDERLYING THE PROPERTY) OR (2) ANY PAST PRESENT OR FUTURE VIOLATIONS OF ANY ENVIRONMENTAL LAWS; PROVIDED, HOWEVER, THAT THE FOREGOING RELEASE DOES NOT APPLY TO, AND SHALL NOT PROHIBIT LPC WEST FROM BRINGING A CLAIM BASED UPON, A BREACH OF ANY OF SECTIONS 3.5.1.3, 3.5.1.6, 3.5.1.12, 3.11, 7.1.3, 7.1.4, 7.1.6, and 7.1.9.

3.8.2 Survival. The terms and conditions of this Section 3.8.2 shall expressly survive the Closing of each Parcel. Neither City nor LPC West is liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property furnished by any contractor, agent, partner, member, manager, shareholder, employee, servant, or other person, except as expressly set forth in this Agreement and in any Ground Lease and the Deed. Each of LPC West and City has fully reviewed the disclaimers and waivers set forth in this Agreement with its respective counsel and understands the significance and effect thereof.

3.8.3 Acknowledgment. Each of LPC West and City acknowledges and agrees that: (a) to the extent required to be operative, the disclaimers of warranties contained in this Section are “conspicuous” disclaimers for purposes of all applicable laws and other legal requirements; (b) the disclaimers and other agreements set forth herein are an integral part of this Agreement; and (c) neither City nor LPC West would have agreed to ground lease or convey the Property pursuant to this Agreement without the disclaimers and other agreements set forth in this Section 3.8.

3.8.4 LPC West’s Release of City. LPC West, on behalf of itself and anyone claiming by, through or under LPC West hereby waives its right to recover from and fully and irrevocably releases City, its governing council, employees, officers, directors, representatives, and agents (the “**Released Parties**”) from any and all claims, responsibility, or liability that LPC West may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to: (a) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise), valuation, salability, or utility of the Property, or its suitability for any purpose whatsoever; (b) any presence of Hazardous Materials; and (c) any information furnished by the Released Parties under or in connection with this Agreement except as set forth herein. Notwithstanding the generality of the foregoing, the foregoing waiver and release is subject to City’s obligations under Section 3.11 below and does not include any claims, responsibility, or liability to the extent related to the covenants set forth in Section 3.5 or to the representations and warranties of City in this Agreement and those in any Ground Lease or deed for a Parcel.

3.8.5 Scope of Release. The release set forth in Section 3.8.4 hereof includes claims of which LPC West is presently unaware or which LPC West does not presently suspect to exist which, if known by LPC West, would materially affect LPC West's release of the Released Parties. LPC West specifically waives the provision of any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, LPC West agrees, represents, and warrants that LPC West realizes and acknowledges that factual matters now unknown to LPC West may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses, and expenses which are presently unknown, unanticipated, and unsuspected, and LPC West further agrees, represents, and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that LPC West nevertheless hereby intends to release, discharge, and acquit City from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses, and expenses, subject to City's obligations under Section 3.11 below and except to the extent related to the representations and warranties of City in this Agreement and those in the Ground Lease or deed for a Parcel.

3.9 Costs of Escrow and Closing. City shall pay the cost for an ALTA standard leasehold title insurance policy for each of Parcels 2, 4 and 5. LPC West shall pay the cost for the Title Policy above the cost of an ALTA standard leasehold title insurance policy, including the cost of extended coverage and endorsements. City shall pay the cost of any and all transfer or excise tax, the Parties shall share equally escrow fees charged by the Title Company, and LPC West shall pay the Title Company's document recordation fees, except for recordation of documents needed to remove title exceptions that City has agreed to remove pursuant to City's Cure Notice, which shall be paid by City. All other Closing costs shall be allocated in accordance with local custom. All items of income and expense attributable to the Parcel subject to the Closing, including any real estate taxes and assessments, shall be prorated as of 11:59 p.m. Pacific Time on the day prior to the Closing Date.

3.10 Real Estate Commissions. Each of City and LPC West represents and warrants to the other that it has not engaged, in any manner, any broker or finder nor incurred any liability for any brokerage or finders' fees or commissions, in connection with this Agreement or the transactions contemplated thereby. City and LPC West shall indemnify, defend, and hold harmless each other from and against any and all claims incurred or asserted against the other, and from and against all losses, liabilities, damages, costs, and expenses, including reasonable attorneys' fees, actually incurred by the other as a result of any claims of any broker or finder in connection with this Agreement or the transactions contemplated thereby where such claims are allegedly based on actions of the indemnifying Party or its agents or representatives. The provisions of this Section 3.10 shall survive termination of this Agreement.

3.11 Soil Remediation Plan. City and LPC West acknowledge and agree that the Environmental Reports (defined below) reveal the presence of Hazardous Materials in, on, under and about the Property in the form of contaminated soils ("**Contaminated Soils**"). As a material inducement to LPC West to acquire and develop the Parcels in accordance with, this Agreement, City agrees to contribute to the cost of removal and/or remediation as further provided herein.

3.11.1 City, at its sole cost and expense, prepared a contaminated media management plan to address Contaminated Soils existing on the Property, which plan includes items (a) through (f) of the definition of incremental costs as set forth in Section 3.11.5 ("**Remediation Plan**"). City provided a draft Remediation Plan to LPC West for its review and approval, which LPC West approved.

3.11.2 The Parties agree and intend the Remediation Plan to provide that: (a) Category 1 soils will be disposed of by LPC West at its cost and expense; (b) Category 2 and 3 soils will be placed by LPC West, at its cost and expense, on a site designated by City in writing on or before the Phase 1 Closing Date within a ten (10) mile radius of the Property; and (c) City and LPC West will share incremental costs associated with the removal or remediation of Category 4 soils from each Parcel comprising the Property with City paying ninety percent (90%) and LPC West paying ten percent (10%) of all such incremental costs; provided that City's liability for such incremental costs shall not exceed two million four hundred thousand (\$2,400,000).

3.11.3 In disposing of soils from the Property, LPC West shall conform to the Remediation Plan. Any changes to the Remediation Plan must be pre-approved by City, which approval City will not unreasonably withhold, condition or delay. On or before the Phase 1 Closing Date, City, at no cost to LPC West, shall (a) obtain any and all permits and other approvals necessary for the site to which LPC West will deliver the Category 2 and 3 soils to, and for City to receive the Category 2 and 3 soils at, the designated site, and (b) receive, offload, stack, store, distribute, manage and maintain the soils at, on and about the designated site. LPC West's compliance with the Remediation Plan and delivery of the Category 2 and 3 soils to the designated site shall immediately and automatically result in a transfer of ownership and responsibility for such soils to City, and LPC West shall have no further responsibility or liability for such soils whatsoever. If City believes that LPC West has failed to comply with the Remediation Plan for purposes of this Section 3.11.3, then within thirty (30) days of LPC West's delivery of the Category 2 and 3 soils to the designated site, City shall so notify LPC West in a writing that sets forth in detail the alleged noncompliance. Failure of City to timely provide such notice shall be deemed City's waiver of any and all allegations that LPC West failed to comply with the Remediation Plan with respect to the Category 2 and 3 soils delivered to the designated site.

3.11.4 City will reimburse LPC West for its share of incremental costs within thirty (30) days of receipt from LPC West of documentation reasonably required by City of the incremental costs actually incurred in accordance with the Remediation Plan. LPC West shall not submit for reimbursement of incremental costs more frequently than monthly. The applicable Ground Leases and Parcel 3 purchase and sale agreement shall provide that any environmental remediation be performed in accordance with the Remediation Plan.

3.11.5 As used in this Section 3.11.5, "incremental costs" means all costs that would not otherwise be incurred but for the existence of Category 4 soils, in, on, under and about the Property, including: (a) soil off-haul and disposal; (b) environmental testing of materials (including soil and groundwater) removed from the Property if and as required by applicable law or a disposal facility; (c) environmentally required materials and equipment such as demarcation fabric; (d) dust and track-out control; (e) management of soil piles; and (f) any specialty clothing needed for workers performing soil removal or other remediation work. In other words, "incremental costs" are costs and expenses in excess of costs that would be incurred by LPC West as a result of the existence of Category 1 soils in, on, under and about the Property, including in each cost category described in subsections (a) through (f) of this Section 3.11.5.

3.11.6 As used in this Section 3.11.6, "Category 1", "Category 2", "Category 3" and "Category 4" soils shall have the meaning given to such terms by the Washington State Department of Ecology.

## ARTICLE 4. GROUND LEASE TERMS

4.1 General Terms. The Ground Lease form to be used for Parcels 2, 4 and 5 contains terms that substantially conform to the intent of the provisions in this Article 4 and such other customary and commercially reasonable terms of a long-term ground lease the Parties may agree upon. Accordingly, the Ground Lease form will:

4.1.1 Require LPC West to construct the agreed upon Component of the Improvements for the Parcel.

4.1.2 Have a term which begins at Closing and terminates no later than eighty (80) years thereafter, divided into an initial term of fifty (50) years with two (2) renewal terms of fifteen (15) years each, which renewal terms LPC West may exercise if LPC West is not in default of the Ground Lease at the time of renewal beyond any applicable notice and cure period.

4.1.3 State the amount of annual Ground Lease rent, which shall be calculated as follows:

4.1.3.1 For Parcels 2, 4 and 5, by multiplying the appraised value of the property (on a per square foot basis) commonly referred to by the Parties as “Block X” and depicted on Exhibit A-2 attached hereto (“**Block X**”) by the square footage of each such Parcel as set forth in the final plat or subdivision creating the Legal Lots (for each such Parcel, the “**Allocated Value**”), and then multiplying the Allocated Value by six percent (6%), which product shall then be multiplied by the greater of (a) the percentage of Market Rate Housing provided on the Parcel, or (b) fifty percent (50%). LPC West will notify City of changes to the Market Rate Housing Ratio within thirty (30) days of such change occurring and will owe rent based on the date the change to the percentage of Market Rate Housing occurred. As used in this Section 4.1.3.1, (I) the “**appraised value**” means the value set forth in the February 28, 2023 appraisal prepared on behalf of City by Colliers International Valuation & Advisory Services and prepared for Waterfront Gateway Land (Block X), as increased in accordance with Section 4.1.3.2 below, and (II) the “**percentage of Market Rate Housing**” means the quotient resulting from solving a fraction, the numerator of which is the number of Market Rate Housing units on the applicable Parcel and the denominator of which is the total number of housing units on such Parcel, and multiplying such quotient by one hundred (100) (the “**Market Rate Housing Ratio**”).

4.1.3.2 Rent shall be abated for a period of two (2) years from the commencement date of each Ground Lease and shall be discounted in accordance with Schedule 4.1.3.3 attached to this Agreement. Beginning on the Effective Date and continuing annually until the Closing for Parcels 2, 4 and 5 and thereafter (and including during the two (2)-year rent abatement period) Ground Lease rent for each Parcel will be adjusted based on the change in the Consumer Price Index (Seattle-Tacoma-Bellevue, WA) from the prior twelve (12) months, with a floor of 2.5% and a cap of 5.5%. The Ground Lease will provide for a marking up of rent every twenty (20) years during the each Ground Lease term to the lesser of (a) fair market rental value, which shall be determined by a third-party appraisal that assumes existing usages and densities for each Parcel, and (b) ten percent (10%) more than Ground Lease rent paid during the immediately preceding year.

4.1.4 Provide that rent will be paid on a monthly schedule during the term of the Ground Lease.

4.1.5 Provide that City will provide access from a public street, utilities, and services to the Parcel.

4.1.6 Provide that the Ground Lease may be freely assigned or transferred by the tenant once City has issued a Certificate of Occupancy for the Component.

## ARTICLE 5. CONSTRUCTION OF IMPROVEMENTS

### 5.1 Improvements to Conform to Design Renderings and Approvals.

5.1.1 The Improvements to be constructed on each Parcel shall be designed and constructed substantially in accordance with the approved 100% Schematic Design Plans and Drawings, which will be attached as Exhibit B to this Agreement when prepared by LPC West and approved by the City, and will be constructed in a good and workmanlike manner and in compliance with Approvals granted by City in its regulatory capacity (as distinguished from its proprietary capacity as the owner of the Parcel and as a Party to this Agreement).

5.1.2 LPC West will provide to City for its proprietary review and approval, which approval City shall not unreasonably withhold, condition, or delay, 100% Schematic Design Plans and Drawings for each Parcel no later than the date that is ninety (90) days following the Code Amendment Deadline. Within (10) Business Days of receipt of such plans from LPC West, City shall provide LPC West with any objections to such plans in writing and with detail sufficient to enable LPC West to understand and respond to such objections. If City fails to timely provide such detailed objections, City shall be deemed to have approved the 100% Schematic Design Plans and Drawings presented by LPC West. If City does timely provide such detailed objections to LPC West's 100% Schematic Design Plans and Drawings, then LPC West, at its election, may either (a) provide revised 100% Schematic Design Plans and Drawings to City that LPC West believes are responsive to City's objections, or (b) meet with City to discuss such objections and then provide revised 100% Schematic Design Plans and Drawings to City that LPC West believes are responsive to City's objections. The review process shall continue until the City has approved the 100% Schematic Design Plans and Drawings; *provided, however*, that after the first City review, the City shall have only five (5) Business Days to review and provide detailed objections to subsequent iterations of the 100% Schematic Design Plans and Drawings.

5.2 Commencement of Construction of Improvements. LPC West shall commence construction of Improvements on a Parcel no later than ninety (90) days after the Closing has occurred for such Parcel. As used in this Agreement, "**commence construction**" or "**commencement of construction**" and related phrases mean the date upon which the general contractor for a Component has commenced mobilization at the relevant Parcel. Subject to delay by Force Majeure, LPC West's failure to timely commence construction of a Component shall constitute an event of default under the Ground Lease for that Parcel and shall entitle City to exercise its remedies under that Ground Lease.

### 5.3 Completion of the Improvements.

5.3.1 LPC West shall use commercially reasonable efforts to prosecute to completion the construction of Improvements on a Parcel by the date set forth in the Schedule of Performance ("**Required Completion Date**"), with "**completion of construction**" and related phrases meaning the date City issues a Certificate of Occupancy for the relevant Improvement or Improvements. LPC West anticipates that completion of construction and the issuance of Certificates of Occupancy for Improvements within one or more Components will be phased. The Schedule of Performance will reflect such phasing. Subject to Force Majeure, LPC West's failure to timely complete an Improvement on a Parcel shall constitute an event of default under the Ground Lease and entitle City to exercise its remedies under the Ground Lease or to exercise City's rights under the Completion Guaranty.

5.3.2 City and LPC West acknowledge and agree that archaeological artifacts have been discovered on the Property. If LPC West encounters archaeological artifacts on any portion of the Property, then any and all future deadlines in the Schedule of Performance shall be delayed on a day-for-day basis, commencing on the date of LPC West’s discovery of such artifacts and continuing as reasonably necessary for LPC West to handle, remove, and otherwise deal with such artifacts in compliance with all applicable Laws. Such period of delay shall be determined by LPC West in its reasonable discretion, provided that it is working diligently and in good faith to resolve all issues related to such artifacts and to continue with construction and development of the Property.

5.4 Progress Reports. From commencement of construction of Improvements on a Parcel until such time as LPC West has achieved completion of construction of Improvements on such Parcel, LPC West shall provide City with monthly progress reports regarding the status of the construction.

5.5 Construction Responsibilities.

5.5.1 City Not Responsible for Construction of Improvements. City shall not be responsible for any aspect of LPC West’s conduct in connection with the construction of Improvements, including the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, consultants, and managers. Any review or inspection undertaken by City with reference to the construction of Improvements is solely for determining whether LPC West is properly discharging its obligations to City under this Agreement and should not be relied upon by LPC West or by any third parties as a warranty or representation by City as to the quality of the design or construction of the Improvements.

5.5.2 Intentionally Deleted.

5.5.3 Public Procurement Process. Some elements of the Improvements that are City funded in whole or in part may be subject to a competitive procurement process. More specifically, City contemplates that construction of the public plaza on non-ground leased property adjacent to City Hall will be subject to a competitive procurement process. City will lead and manage the public bidding process.

5.6 Certificate of Completion. Promptly after completion of construction of Improvements on a Parcel and provided, that a Certificate of Occupancy has issued for the applicable Improvements, no later than five (5) Business Days after receipt of a written request from LPC West, City shall provide to LPC West a written instrument certifying the completion of the Improvements on the Parcel (the “**Certificate of Completion**”). The Certificate of Completion shall be conclusive evidence that LPC West has fulfilled its obligations under this Agreement with respect to construction of Improvements on the applicable Parcel. The issuance of such Certificate of Completion shall be in addition to any approvals required to be obtained from City in its regulatory capacity and such issuance shall not constitute approval by City or otherwise the bind City in its regulatory capacity.

5.7 Entry by City.

5.7.1 LPC West shall permit City, through its officers, agents, or employees, to enter an Improvement on a Parcel at reasonable times during business hours after reasonable advance written notice and acceptance by LPC West (a) to inspect the work of construction to determine that the same is in conformity with the requirements of this Agreement, and (b) following completion of construction, to

inspect the ongoing operation and management of the Component to determine that the same is in conformance with the requirements of this Agreement. Notwithstanding the foregoing, City shall not be permitted to interfere with LPC West's operations at the applicable Parcel or Improvement or interfere with any tenant's occupancy of the Parcel or Improvement, and the scheduling of any inspections shall take into account the timing and availability of a LPC West representative to attend such inspections and access to tenants' premises pursuant to tenants' rights under the Leases or otherwise. City's inspections shall not involve any activities that penetrate into an Improvement or any portion thereof.

5.7.2 City shall immediately repair any damage to the Parcel or Improvements caused by City's entry onto and inspections of the Parcel or Improvement. City hereby agrees to indemnify, defend, and hold LPC West, its managers, members, partners, officers, directors, employees, and agents free and harmless from and against any and all costs, losses, liabilities, damages and expenses, of any kind or nature whatsoever (including reasonable attorneys' fees and costs actually incurred), arising out of damage to persons or property caused by or arising out of or resulting from the entry and/or the conduct of inspections upon a Parcel or Improvements by City, its officers, agents or employees. The foregoing obligations and indemnification shall survive the expiration or earlier termination of this Agreement.

5.7.3 LPC West acknowledges that City is under no obligation to supervise, inspect, or inform LPC West of the progress of construction or operations, and LPC West shall not rely upon City therefor. Any inspection by City during the construction is entirely for its purposes in determining whether LPC West is in compliance with this Agreement and is not for the purpose of determining or informing LPC West of the quality or suitability of construction. LPC West shall rely entirely upon its own supervision and inspection (or that provided by third parties) in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers.

## 5.8 Construction Coordination.

5.8.1 Access; Interference. LPC West shall comply in all material respects with all applicable City permitting and construction requirements related to street closures, construction disturbances, and the maintenance of access to neighboring facilities and businesses, including City Hall, the Vancouver Convention Center, and Esther Short Park.

5.8.2 Construction Traffic. The Parties shall agree to a route for the construction truck traffic to utilize during construction, including keeping trucks off 6<sup>th</sup> Street through the eastern section of Downtown to the extent that reasonable ingress to and egress from the construction site remains without the use of 6<sup>th</sup> Street.

5.8.3 Construction Worker Parking. LPC West shall provide a construction worker parking plan to City for review and approval (such approval not to be unreasonably withheld, conditioned, or delayed) prior to commencement of construction. If LPC West's parking plan provides adequate parking for construction workers so that they are not utilizing on-street parking close to the construction site, then City shall have no reason to disapprove of such parking plan.

5.8.4 Construction Adjacent to BNSF Railway Berm. LPC West is responsible for obtaining any needed consents, approvals, or permissions from BNSF Railway to utilize areas adjacent to the railroad berm. A copy of such BNSF Railway consents, approvals, or permissions, if any, shall be provided in writing to City prior to start of the construction of the relevant Component.

## ARTICLE 6. DEVELOPMENT OF IMPROVEMENTS

6.1 Elements of Improvements. The Improvements for the Property as a whole will include the following elements of a mixed-use development:

6.1.1 On Parcels 2, 3, and 4 a combined minimum of 335 residential units, or 410 units in the event a building code revision is adopted to allow for six (6) stories light wood framing, targeted to a variety of income levels, including ninety-five (95) units on Parcel 3 that will be designated as affordable units (“**Affordable Housing**”) with all ninety-five (95) units at or below 60% of Portland Metro Area Median Income and as otherwise restricted by the Affordable Housing Covenant and third parties providing equity and debt financing for the construction of the affordable housing project on Parcel 3. LPC West shall designate no fewer than fifty percent (50%) of the residential units constructed on Parcels 2 and 4 as affordable to those with incomes at or below eight percent (8%) of Portland Metro Area Median Income (“**Gateway Affordable Housing**”) and as otherwise restricted by the Gateway Affordable Housing Covenant. The City acknowledges and agrees that, to the extent provided by the Purchase and Sale Agreement effective April 14, 2025 and the Assignment agreement effective June 10, 2025 to which NAYFC is a party, construction of the minimum Affordable Housing on Parcel 3 is the responsibility of NAYFC.

6.1.2 On Parcels 2, 4 and 5, a goal of an aggregate of 9,000 square feet (plus or minus twenty percent (20%)) of retail/commercial space generally located on the ground floors or at street level. The retail adjacent to Esther Street and W. 6<sup>th</sup> Street shall be sales and service orientated retail, dining, and entertainment establishments with a goal of promoting an active environment.

6.1.3 On the entire Property, a minimum number of parking spaces that complies with City Code, which spaces are anticipated to be located in an onsite parking garage on Parcel 5, including a minimum of fifty (50) spaces reserved for Parcel 3 ; and

6.1.4 Publicly accessible walkways over and across the Property allowing pedestrian connection between Esther Street and West 6th Street (total of approximately 13,000 – 14,000 square feet) (the “**Open Space**”).

6.2 Public Benefits; Design Matters.

6.2.1 *Sustainability.* LPC West agrees to meet the sustainability objectives outlined in Schedule 6.2.1 attached hereto.

6.2.2 *Public art program.* City and LPC West shall work collaboratively to identify locations throughout the Property to install public art. LPC West, in collaboration with the owner of Parcel 3, shall solicit artwork through City’s Public Art Program, which is subject to review by City’s Culture, Arts and Heritage Commission.

6.2.3 *Workforce and business development strategy.* LPC West shall actively engage a diverse and local workforce to construct the Improvements required by this agreement by implementing the workforce and business development strategy set forth on Schedule 6.2.3 attached hereto.

6.2.4 *Development review and design considerations.* LPC West shall ensure that the construction of all Improvements referenced in Section 6.1 conforms to the applicable design guidelines, attached hereto as Schedule 6.2.4 (the “**Design Guidelines**”). LPC West shall submit to the Executive

Director of CCRA and City’s Director of Economic Prosperity and Housing for each vertical building to be constructed on a Parcel: (a) any material changes to the 100% Schematic Design Plans and Drawings attached to this Agreement as Exhibit B; (b) fifty percent (50%) design development drawings; (c) 100% design development drawings; and (d) the permit set of drawings and specifications. City shall have ten (10) Business Days from receipt of the applicable drawings to review the same in its capacity as a Party to this Agreement (versus its regulatory capacity) for conformance to the Design Guidelines and to either approve such drawings or provide detailed written comments describing how the drawings do not conform to the Design Guidelines. If City timely provides detailed written comments describing how the drawings do not conform to the Design Guidelines, LPC West shall promptly respond to such comments. A failure of City to timely respond to a submission of drawings by LPC West shall be deemed City approval thereof. City and LPC West shall work collaboratively to seek community engagement on the design prior to submitting designs to City for regulatory review. Any material changes to the 100% Schematic Design Plans and Drawings attached to this Agreement shall be agreed upon by City and LPC West prior to submission for regulatory review.

6.2.5 Intentionally deleted.

6.2.6 *Publicly accessible spaces, visitor amenities, and attraction requirements.*

6.2.6.1 LPC West shall design all the Open Space depicted in Schedule 6.2.6. Within one hundred twenty (120) days of the Effective Date, LPC West will submit to City staff, one hundred percent (100%) schematic design, a material palette and precedent imagery for the Open Space that conforms to City Code and any applicable City park development standards (the “**Initial Submittal**”). The Initial Submittal will be subject to approval by City staff, which City staff shall not unreasonably withhold, condition, or delay. Subject to such approval by City staff, LPC West may pursue regulatory approvals from City of the Open Space design.

6.2.6.2 LPC West shall construct the Open Space and be responsible for the operation, maintenance, and management of the Open Space.

6.2.6.3 The City shall have rights to all design work completed by LPC West as of the Effective Date on the public plaza that was originally considered on Block Y. LPC West shall deliver to the City such design work no later than sixty (60) days after the Effective Date.

6.2.7 Retail. City and LPC West agree that uses the ground floor of Parcels 2 and 4 will have features that are anticipated to procure and support small businesses, which are important to the character of the Improvements to be developed on the Property. LPC West agrees to develop and manage the commercial spaces in accordance with the Small Business Marketing and Outreach Plan attached to this Agreement as Schedule 6.2.7.

6.2.8 *Access Easements*. City and LPC West will work collaboratively and cooperatively to draft pedestrian access easements over and across the Open Space on Block X (“**Access Easements**”) that will be recorded against the Property on or before the Phase 1 Closing. In addition to pedestrian access, the Access Easements are anticipated to include restrictions on use, operational and programming controls in favor of LPC West, and maintenance provisions.

6.2.9 *Tree Plan*. As part of construction of the Components, LPC West shall plant trees in compliance with the City’s TreeCAP Silver Leaf Certification. Based on conceptual design, LPC West

anticipates planting trees in accordance with Schedule 6.2.9 attached to this Agreement, which plan may change as design of the Components progresses.

6.3 Signage. The Improvements will include signage in conformance with (a) the project character established in the 100% Schematic Design Plans and Drawings, (b) Design Guidelines, and (c) City Code.

6.4 Regulatory Approvals.

6.4.1 Approval of Permits for Improvements. LPC West shall use commercially reasonable efforts to apply for and secure all necessary Approvals to construct the Improvements on the timeline set forth in the Schedule of Performance attached hereto as Exhibit C. Unless otherwise expressly provided in the Schedule of Performance, failure to secure Approvals by the target deadlines in the Schedule of Performance, which shall be subject to Force Majeure, shall not constitute an event of default of this Agreement.

6.4.2 City's Regulatory Discretion. LPC West acknowledges that execution of this Agreement by City does not constitute approval by City in its regulatory capacity (as distinguished from its proprietary capacity as the owner of the Property and as a Party to this Agreement) of any required or additional Approvals and in no way limits the discretion of City in the regulatory permit approval process and this Agreement does not vest to any land use or development standards. City, in its proprietary capacity, shall assist LPC West throughout any and all Approval processes but does not represent or warrant that its assistance will guarantee any regulatory approval. If City, acting in its regulatory capacity, will not approve any requirements or changes to the 100% Schematic Design Plans and Drawings or any other drawings reviewed by City under Section 6.2.4 above in its proprietary capacity as a Party under this Agreement, then City's decisions in its regulatory capacity shall govern and control.

6.5 Multi-Family Tax Exemption Program Conditional Approval. Following the Effective Date, LPC West intends to submit to City two applications for City's limited multi-family tax exemption ("MFTE") program associated with the proposed development of new market rate multi-family residential housing to be constructed in two separate buildings on Parcels 2 and 4 of the Property (collectively the "**MFTE Projects**"), which Parcels are depicted on Exhibit A-2 attached hereto. Pursuant to City Code Section 3.22, LPC West has applied for two separate twelve (12) year exemptions that, among other requirements of City Code Section 3.22, are contingent upon LPC West agreeing to provide at least twenty percent (20%) of the residential units constructed on each such Parcel at rents affordable to households making not greater than eighty percent (80%) of Area Median Income for a minimum of twelve (12) years. The foregoing affordability requirements will be set forth in a covenant with a term not less than twelve (12) years, together with such other terms and conditions as are reasonably required to comply with RCW 39.33.015, which covenant will be recorded against each applicable Parcel (each, a "**Gateway Affordable Housing Covenant**"). LPC West may request an extension of the exemption period in accordance with City Code. The Parties anticipate that, if constructed as proposed and rented at the affordability levels required herein, LPC West will satisfy the MFTE approval criteria and that LPC West's agreement to provide the Gateway Affordable Housing will satisfy the requirement for a Final Certificate of Tax. The following terms and conditions, which reflect the MFTE rules and regulations as of the Effective Date, are anticipated to govern the agreement between City and LPC West as it pertains to LPC West's eligibility for the subject multi-family tax exemption:

6.5.1 Following LPC West’s submission of completed applications for the MFTE and City approval thereof, City shall issue LPC West Conditional Certificates of Acceptance of Tax Exemption for Parcels 2 and 4.

6.5.2 LPC West shall construct multi-family residential housing on Parcels 2 and 4 of the Property as identified in the 100% Schematic Design Plans and Drawings in Exhibit B or as otherwise authorized by City. In no event shall construction of the MFTE Projects provide a combined total of fewer than two hundred twenty (220) new permanent multi-family residential units.

6.5.3 LPC West shall construct the buildings according to the green building standards set forth in Schedule 6.2.1, which will satisfy City’s Interim Green Building Policy.

6.5.4 LPC West shall complete construction and receive a temporary certificate of occupancy for each building of multi-family residential housing to be constructed on Parcels 2 and 4 and have at least fifty percent (50%) of the Gateway Affordable Housing units leased within three (3) years from the Effective Date, or within any extension thereof granted by City pursuant to City Code Section 3.22.

6.5.5 Upon completion of the MFTE Projects and upon issuance by City of a temporary or permanent certificate of occupancy therefor, LPC West agrees to file with City’s Director of Economic Prosperity and Housing the following for each of the MFTE Projects:

6.5.5.1 A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the property that is subject to the MFTE program (Parcels 2 and 4);

6.5.5.2 A description of the completed work and a statement of qualifications for the exemption; and

6.5.5.3 A statement that the work was completed within the required three-year period or any authorized extension or any extension thereof.

6.5.5.4 A statement that the project meets income-based housing requirements as described in RCW 84.14.020.

6.5.5.5 As built site plans and building floor plans.

6.5.6 City agrees, conditioned on LPC West’s completion of the MFTE Projects, and on the LPC West’s filing of the materials described in Paragraph 6 above, to file a Final Certificate of Tax Exemption for Parcels 2 and 4 with the Clark County Treasurer and Assessor.

6.5.7 LPC West agrees, within thirty (30) days following the first (1st) anniversary of City’s filing of the Final Certificate of Tax Exemption, and each year thereafter for a period of twelve (12) years, to file a notarized declaration for each MFTE Project with City’s Director of Economic Prosperity and Housing indicating the following:

6.5.7.1 A statement identifying the total number of occupied and vacant multi-family units receiving the MFTE property tax exemption;

6.5.7.2 A certification that the buildings continue to be in compliance with this Agreement, the applicable requirements of City Code Chapter 3.22 and RCW Chapter 84.14;

6.5.7.3 A description of any improvements or changes to the MFTE Projects constructed after the issuance of the certificate of tax exemption;

6.5.7.4 The total monthly rent for each unit within the MFTE Projects; and

6.5.7.5 The income of each renter household at the time of initial occupancy.

6.5.8 LPC West shall pay City of Vancouver an annual monitoring fee of \$500 upon submission of the declaration referenced in Section 6.5.7 during the exemption period.

6.5.9 LPC West agrees to maintain the MFTE Projects including all improvements in compliance with all applicable City Codes and MFTE requirements.

6.5.10 LPC West agrees to maintain records supporting all information provided to City and to make those records and the multi-family units within MFTE Projects available for inspection by City during the exemption period. Failure to submit the annual declaration identified in Section 6.5.7 or to maintain adequate records may result in the tax exemption being canceled.

6.5.11 City may cancel the Final Certificates of Tax Exemption should LPC West, or its successors or assigns, fail to comply with any of the terms and conditions of this section. Cancellation of the Final Certificate of Tax Exemption may subject the LPC West to potential tax liability as further described in RCW 84.14.

6.5.12 LPC West agrees that this Agreement is consistent with and subject to the Vancouver Multi-Family Housing Tax Exemption that it applied for, set forth at City Code, Chapter 3.22.

6.6 The provisions of this Section shall be incorporated into the relevant Ground Lease and shall survive expiration of this Agreement.

## **ARTICLE 7. REPRESENTATIONS AND WARRANTIES**

7.1 Representations and Warranties of City. City hereby makes the following representations and warranties to LPC West as of the Effective Date, upon each of which LPC West is entitled to rely and has relied, which representations and warranties shall be deemed re-made as of the Closing for each Parcel, subject to the qualifications and exceptions provided in this Agreement:

7.1.1 Organization and Authority. City is a Washington municipal corporation validly formed. City has the full right, power, and authority to enter into this Agreement, to ground lease all of the Parcels, and to otherwise consummate or cause to be consummated the transactions contemplated herein. The person signing this Agreement on behalf of City is authorized to do so. Other than City Council approval, no consent, approval, or action of, filing with, or notice to any governmental or regulatory authority or any other person or entity on the part of City is required in connection with the execution, delivery, and performance of Agreement or the consummation of the transactions contemplated herein. This Agreement has been duly executed and delivered by City and is a valid and binding obligation of City, enforceable against City in accordance with its terms.

7.1.2 No Breach. The execution, delivery, and performance of this Agreement by City and the consummation of the transactions contemplated herein will not: (a) result in a breach or acceleration of or constitute a default or event of termination under the provisions of any agreement or instrument by which the Property is bound or affected which would have a material adverse impact on the value of the Property or LPC West's ability to ground lease the Property; (b) except for the Ground Lease, result in the creation or imposition of any lien, charge, or encumbrance, against the Property or any portion thereof; or (c) constitute or result in the violation or breach by City of any judgment, order, writ, injunction or decree issued against or imposed upon City or, to City's knowledge, result in the violation of any applicable law, rule, or regulation of any governmental authority.

7.1.3 Litigation; Condemnation. There is no litigation, action, suit, nor any condemnation, environmental, zoning, or other government proceeding pending, or to City's knowledge, threatened, which may affect the Property, City's ability to perform its obligations under this Agreement, or LPC West's ability to develop the Improvements.

7.1.4 Hazardous Materials. To City's knowledge, except as disclosed in writing to LPC West in the environmental reports listed on Schedule 7.1.4 attached hereto (collectively, the "**Environmental Reports**"), City has received no written notice that the Property is in violation of any Hazardous Materials Laws, and there has been no generation, manufacture, refinement, transportation, treatment, storage, handling, disposal, transfer, release, or production of Hazardous Materials, or other dangerous or toxic substances or solid wastes on the Property, except in compliance with all Hazardous Materials Laws, and City has not received notice of the existence or release of any Hazardous Materials on the Property.

7.1.5 Foreign Person. City is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended.

7.1.6 Compliance with Laws. To City's knowledge, and except as disclosed in writing to LPC West as part of the Property Information, the Property is in compliance with all applicable laws, rules, regulations, ordinances, and other governmental requirements, including environmental laws (collectively, "**Laws**"). City has not received or given any notice stating that the Property is in violation of any Laws.

7.1.7 Ownership. City is the legal and beneficial fee simple titleholder to the Property, and to City's knowledge, the Property is free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, or judgments, except as disclosed by the Title Commitment.

7.1.8 Agreements. There are no leases, licenses, occupancy agreements or service contracts that affect the Property that are not terminable at the Closing of each Parcel, and, except as disclosed in the Title Commitment, there are no options to purchase the Property or rights of first refusal to purchase the Property.

7.1.9 Material Defaults. As of the Effective Date, there are no material defaults by City under this Agreement or to City's knowledge, events that with the passage of time would constitute a material default of City under this Agreement.

7.2 City's Knowledge. The term "**City's knowledge**" or any reference thereto shall mean and apply to the actual knowledge of the managerial and supervisory personnel of City having responsibility for the Property or the Improvements. The foregoing personnel are acting for and on behalf of City and in a

capacity as an executive or employee of City and are in no manner expressly or impliedly making any representations or warranties in an individual capacity. LPC West waives any right to sue or to seek any personal judgment or claim against any such individual.

7.3 Survival of City's Representations and Warranties; Indemnification. City's liability with respect to the representations and warranties of City set forth in this Agreement shall survive the Closing Date with respect to each Parcel for a period of twelve (12) months from the closing of such Parcel (the "**Survival Period**"). From and after the Closing of each Parcel and until the end of the Survival Period, City shall indemnify, defend, and hold harmless LPC West, and each of LPC West's members, managers, employees, agents, successors, and assigns ("**LPC West Parties**"), from and against any and all claims, demands, actions, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, and reasonable attorneys' fees, that LPC West shall incur or suffer as a result of, or that arise, result from, or relate to any intentional or negligent material breach of any of City's representations, warranties, or covenants under this Agreement with respect to a particular Parcel.

7.4 Limits on LPC West's Claims Alleging Breach of Representations or Warranties or any other Claims. Notwithstanding any term, condition or provision in this Agreement to the contrary, express or implied, in the event the Closing occurs and LPC West receives possession of the Property, LPC West hereby expressly waives, relinquishes and releases any right or remedy available to LPC West, at law, in equity or under this Agreement, to make a claim against City for damages that LPC West may incur, or to rescind this Agreement and the transactions contemplated hereby, as the result of any breach by City of any provision of this Agreement or any of City's representations or warranties contained in Section 7.1 being untrue, inaccurate or incorrect if (a) LPC West had actual knowledge that such representation or warranty was untrue, inaccurate or incorrect at the time of the Closing and LPC West nevertheless permitted Closing to occur and the Deed or Memorandum of Ground Lease, as applicable, to be recorded, or (b) LPC West's damages and losses, if any, as a result of such representation(s) and/or warranty(ies) being untrue, inaccurate or incorrect are, in the aggregate, less than fifty thousand dollars (\$50,000.00), which amount is merely for purposes of setting a threshold for making claims and does not exempt City as to any portion of any amount for which it is liable. Notwithstanding anything contained herein or in this Agreement to the contrary, if the Closing has occurred and if LPC West has not waived, relinquished and released all rights or remedies available to it at law, in equity or otherwise as provided hereunder, the total aggregate liability of City arising pursuant to or in connection with City's covenants, agreements, representations, warranties, or other obligations (whether express or implied) set forth in this Agreement, including the exhibits attached hereto, shall not exceed two hundred thousand dollars (\$200,000.00) per Parcel or one million dollars (\$1,000,000.00) in the aggregate. LPC West acknowledges and agrees that the limits and restrictions upon any claim by LPC West as set forth in this Section have been specifically negotiated and agreed upon by and between the Parties and that City would not be willing to enter into this Agreement without LPC West's agreement to these restrictions and that the same are therefore binding and effective upon LPC West and its successors and assigns. All of the provisions of this Section will survive the Closing.

7.5 Representations and Warranties of LPC West. LPC West hereby represents and warrants to City:

7.5.1 ERISA. LPC West is not financing the Ground Leases or construction of Improvements on the Property with the assets of an employee benefit plan as defined in Section 3(3) of ERISA.

7.5.2 Organization and Authority. LPC West has been duly organized or formed and is validly existing under the laws of Texas. LPC West has the full right, power, and authority to enter into this Agreement, to ground lease the Parcels as provided in this Agreement, and to carry out LPC West's

obligations hereunder, and all requisite action necessary to authorize LPC West to enter into this Agreement and to carry out its obligations hereunder have been, or by the Closing will have been, taken. The person signing this Agreement on behalf of LPC West is authorized to do so, and this Agreement is enforceable against LPC West in accordance with its terms, subject to bankruptcy, insolvency, and similar laws.

7.5.3 Pending Actions. There is no action, suit, arbitration, unsatisfied order or judgment, government investigation, or proceeding pending against LPC West which, if adversely determined, could individually or in the aggregate materially interfere with LPC West's ability to consummate the transaction contemplated by this Agreement.

7.5.4 Patriot Act and OFAC Compliance. Neither LPC West nor, to LPC West's knowledge, any individual or entity having any interest in LPC West is (i) listed on the Specially Designated Nationals and Blocked Persons List or any other similar list maintained by the Office of Foreign Assets Control or the U.S. Department of the Treasury, pursuant to any authorizing statute, executive order, or regulation; or (ii) a "specially designated global terrorist" or other person listed on Appendix A to Chapter V of 31 C.F.R., as the same has been from time to time updated and amended; or (iii) a person either (A) included within the term "designated national" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515; or (B) designated under Sections 1(a), 1(b), 1(c) or 1(d) of Executive Order No. 13224, 66 Fed. Reg. 49079 (published September 25, 2001) or a person similarly designated under any related enabling legislation or any other similar Executive Orders.

7.6 LPC West's Knowledge. The term "**LPC West's knowledge**" or any reference thereto shall mean the actual knowledge of Patrick Gilligan and Alex Aigner, without duty of inquiry. The named individuals are acting for and on behalf of LPC West and in a capacity as a principal, executive, officer or employee of LPC West or LPC West's affiliates and are in no manner expressly or impliedly making any representations or warranties in an individual capacity. City waives any right to sue or to seek any personal judgment or claim against any named individual.

7.7 Survival of LPC West's Representations and Warranties. LPC West's liability with respect to the representations and warranties of LPC West set forth in this Agreement shall survive the Closing Date of the last Parcel for a period of twelve (12) months.

## **ARTICLE 8. DEFAULT AND REMEDIES**

8.1 General Applicability. The provisions of this Article shall govern the Parties' remedies for breach or failure of this Agreement.

8.2 Default by LPC West. If LPC West shall materially default in the performance of any of its obligations to be performed on or before the Closing Date or if any of the Target Dates of Completion set forth as events of default in Exhibit C (Schedule of Performance) are not timely met by LPC West and such default shall continue for thirty (30) days after written notice to LPC West, City, as its sole and exclusive remedy, may terminate this Agreement and receive the Deposit (to the extent not applied to rent due under the Ground Leases) as liquidated damages for the breach of this Agreement, it being agreed between the Parties hereto that the actual damages to City in the event of such breach are impractical to ascertain and the amount of the Deposit is a reasonable estimate thereof. If a material default by LPC West cannot reasonably be cured within a period of thirty (30) days, no default shall occur if LPC West commences the cure of the breach within thirty (30) days after LPC West receives written notice from City and thereafter diligently prosecutes such cure to completion.



## ARTICLE 9. CASUALTY AND CONDEMNATION

9.1 Condemnation. If the Parcels, or any part thereof, are or become the subject of a condemnation proceeding before the Closing of a Parcel, then LPC West may elect either to (a) terminate this Agreement as to the Parcel or Parcels affected, in which event all rights and obligations of the Parties hereunder shall cease and the Deposit (to the extent not applied to rent due under the first Ground Lease) shall be returned to LPC West, or (b) proceed to consummate the Closing for such Parcel or Parcels, in which event the Parties agree that the rent under the Ground Lease shall be reduced proportionately to the reduction in the size of the Parcel or Parcels and shall be reduced by the total of any awards or other proceeds received by City at or before the Closing Date with respect to any such condemnation proceeding. If LPC West elects to close and the award or other proceeds have not been received by City on or before the Closing Date, then, at the Closing, City shall assign to LPC West all rights of City in and to any awards or other proceeds payable by reason of any such condemnation proceeding. City agrees to notify LPC West in writing of any condemnation proceedings within five (5) days after City learns of the same. Damage and Destruction. If, prior to the Closing Date for any Parcel, any part of the Parcel is destroyed or suffers material damage affecting LPC West's intended use, as determined by LPC West its sole and absolute discretion, LPC West shall have the right, exercisable by giving written notice of such decision to City within thirty (30) days after receiving written notice of such damage or destruction, to terminate this Agreement, in which event the Deposit (to the extent not applied to rent due under the first Ground Lease) shall be returned to LPC West and all rights and obligations of the Parties hereunder shall cease. If LPC West does not timely elect to terminate this Agreement, all insurance and condemnation proceeds payable to City shall be paid or assigned to LPC West upon the Closing.

## ARTICLE 10. MORTGAGEE PROTECTION

10.1 Effect of Revesting on Mortgages. With respect to City's reversionary rights on Parcel 3, City entered into one or more commercially reasonable agreements with a Mortgagee providing a loan for the development of Parcel 3, providing for, among other things, Mortgagee cure rights with respect to a failure to commence construction within ninety (90) days following the applicable Closing Date.

10.2 Mortgagee Not Obligated to Construct. Notwithstanding any of the provisions of this Agreement, a Mortgagee or its designee for purposes of acquiring title at foreclosure shall in no way be obligated by the provisions of this Agreement to construct or complete the Improvements or any portion thereof or to guarantee such construction or completion; *provided, however,* that nothing in this Agreement shall be deemed or construed to permit or authorize any such Mortgagee, or any owner of the Development whose title thereto is acquired by foreclosure, trustee sale or otherwise, to devote that Development to any uses, or to construct any improvements thereon, other than the Improvements contemplated in this Agreement.

10.3 Copy of Notice of Default to Mortgagee. If City delivers any notice or demand to LPC West with respect to any breach of or default by LPC West in its obligations or covenants under this Agreement, City shall at the same time send a copy of such notice or demand to each Mortgagee at the last address of such holder shown in the records of City and if no such address is shown in City's records, then as show in any Mortgage of record.

10.4 Mortgagee's Options to Cure Defaults. After any default in or breach of this Agreement by LPC West where LPC West fails to cure or remedy said default or breach, then each Mortgagee may, at its option, cure or remedy such breach or default within one hundred eighty (180) days after passage of the

latest date for LPC West's cure of the default, and, if permitted by its loan documents, add the cost thereof to the Mortgage debt and the lien of its Mortgage. If the breach or default is with respect to construction of the Improvements, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the Improvements, provided that the Mortgagee notifies City in writing of its intention to complete the Improvements, or portion thereof. Any Mortgagee who properly completes Improvements on a Parcel shall be entitled to issuance of a Certificate of Completion, following the procedures set forth in Section 5.6.

10.5 Amendments to Agreement Requested by Mortgagee. City shall execute amendments to this Agreement or separate agreements to the extent reasonably requested by a Mortgagee proposing to make a loan to or investment in LPC West secured by a security interest in a Component or Parcel or a portion thereof, provided that such proposed amendments or other agreements do not materially and adversely affect the rights of City hereunder or City's interest in the Parcel.**GENERAL PROVISIONS**

11.1 Term. This Agreement shall be effective as of the Effective Date and shall terminate upon the earliest of: (a) a Party giving a notice of termination in accordance with any provision of this Agreement; (b) the mutual agreement of the Parties in writing to terminate this Agreement; or (c) the issuance of a Certificate of Completion for all Components on all Parcels.

11.2 Notices, Demands, and Communications. Any notice, demand, or notice which either Party desires or may be required to make or deliver to the other pursuant to this Agreement shall be in writing and may be delivered, with all applicable delivery and postage charges prepaid, by: (a) personal delivery or messenger; (b) nationally recognized overnight courier service; (c) certified mail through the United States Postal Service, return receipt requested; or (d) e-mail, if sent on the same Business Day by another means allowed hereunder, and addressed as follows:

City:	City of Vancouver PO Box 1995 Vancouver, WA 98668-1995 Attn: Patrick Quinton Email: <a href="mailto:patrick.quinton@cityofvancouver.us">patrick.quinton@cityofvancouver.us</a>
With a Copy to:	City of Vancouver PO Box 1995 Vancouver, WA 98668-1995 Attn: City Attorney's Office Email: <a href="mailto:city.attorneyemails@cityofvancouver.us">city.attorneyemails@cityofvancouver.us</a>
And to:	Pacifica Law Group LLP 1191 Second Avenue, Suite 2000 Seattle, Washington 98101 Attn: Gerry Johnson Email: <a href="mailto:gerry.johnson@pacificalawgroup.com">gerry.johnson@pacificalawgroup.com</a>
LPC West:	LPC West LP 1201 Third Avenue, Floor 22 Seattle, Washington 98101

Attn: Patrick Gilligan  
Email: [pgilligan@lpc.com](mailto:pgilligan@lpc.com)

With a Copy to:

Radler White Parks & Alexander LLP  
Attn: Dina Alexander  
111 SW Columbia Street, Suite 700  
Portland, OR 97201  
Email: [dalexander@radlerwhite.com](mailto:dalexander@radlerwhite.com)

Notices shall be deemed received by the addressee upon the earlier of actual delivery or refusal of a Party to accept delivery thereof; provided that notices sent by email shall be deemed given on the date received if and only if delivered prior to 6:00 p.m. Pacific Time and if simultaneously sent by another means allowed hereunder. 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. Notices may be given by counsel to a Party on behalf of such Party.

11.3 Confidentiality. City agrees to keep financial information and other proprietary information (such as, by way of example, potential tenant information), that LPC West labels “Confidential” (“**Confidential Information**”) confidential, except for public records and open meeting requirements imposed by Washington law on City. Notwithstanding the foregoing, City shall have the right to make disclosures of Confidential Information to City’s legal counsel, City officers, employees, elected officials, agents, consultants and independent contractors who have a need to know such Confidential Information in order to perform their responsibilities under or in connection with this Agreement or development or financing of the Improvements, and who are made aware that Confidential Information must be kept confidential according to (and may not be distributed or used other than in accordance with) this ENA. Notwithstanding the foregoing, LPC West shall have the right to make disclosures of its Confidential Information. The Parties understand and acknowledge that City is a public agency that may be subject to the Open Public Meetings Act RCW 42.30 and is subject to the Washington Public Records Act RCW 42.56 and that information and records provided to City (potentially including Confidential Information) may be subject to public inspection and production in response to public records requests notwithstanding the terms of this Agreement. Notwithstanding anything to the contrary in this Agreement, if City receives a request to disclose Confidential Information under the Washington Public Records Act, City may assert exemptions to disclosure in their sole discretion. If City receives a request to disclose Confidential Information, City agrees to give LPC West ten (10) days’ notice prior to disclosure so that LPC West may seek a protective order. Notwithstanding anything to the contrary contained herein, the term “Confidential Information” shall not, however, include any information that is:

11.3.1 contained in an unrestricted, generally-available printed publication prior to the Effective Date;

11.3.2 available to the general public without use of a Washington Public Records Act Request at the time of disclosure or that becomes publicly available without any wrongful act or failure to act on the part of the recipient;

11.3.3 is known by either Party without any proprietary restrictions at the time of receipt of such confidential information from the discloser or becomes rightfully known to either Party without proprietary restrictions from a third-party source;

11.3.4 is independently developed by the recipient without reference to the confidential information of the discloser; or

11.3.5 is disclosed by the discloser in an open public meeting.

11.4 Time for Approvals. Where this Agreement requires the approval of a Party, said Party will approve or disapprove within ten (10) Business Days after receipt of the material to be approved, except where a longer or shorter time period is specifically provided to the contrary. Failure by a Party to approve or disapprove within said period of time shall be deemed approval. Any disapproval shall state in writing the reasons for such disapproval. Except when specifically set forth as subject to “sole discretion,” approvals will not be unreasonably conditioned, withheld, or delayed.

11.5 Non-Liability of City Officials, Employees and Agents. No member, official, employee, or agent of City shall be personally liable to LPC West, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to LPC West or successor or on any obligation under the terms of this Agreement.

11.6 Force Majeure Delay; Extensions of Time for Performance.

11.6.1 In addition to specific provisions of this Agreement, neither Party hereunder (or any successor in interest) shall be deemed to be in default or breach of this Agreement if any delays or defaults by such Party or its successor or the failure of any Condition Precedent arise from any of the following: (a) insurrection; (b) strikes; (c) lock-outs; (d) riots; (c) floods; (f) earthquakes; (g) fires; (h) unusually severe weather; (i) casualties; (j) acts of god; (k) acts of the public enemy; (l) acts of the other Party; (m) epidemics or pandemics; (n) quarantine restrictions; (o) freight embargoes; (p) litigation (including suits filed by third parties concerning or arising out of this Agreement); (q) inability to secure or the rationing of necessary services, labor, materials, tools, or sources of energy; (r) condemnation; (s) acts or failure to act of any public or governmental agency or entity (other than City as a Party to this Agreement); or (t) any other causes (other than failure of the financing contingency set forth in Section 2.1.2.3) beyond the reasonable and foreseeable control or without the fault of the Party claiming an extension of time to perform (collectively, “**Force Majeure**” and each, a “**Force Majeure Event**”).

11.6.2 If a Party determines that a Force Majeure Event exists, then that Party shall give notice of that event and its cause or causes to the other Party. If any Force Majeure Event occurs, the time or times for performance of the obligations of the Party or Parties, as the case may be, including the failure of any Condition Precedent, shall be extended for the period of the Force Majeure Event; provided, however, that the Party seeking the benefit of the provisions of this Section shall, within sixty (60) days after the Party becomes aware of a Force Majeure Event, have first notified the other Party in writing of its cause or causes and the estimated time of correction. Any Party may suspend its performance under this Agreement if that performance is conditioned on performance that another Party has been excused from by reason of a Force Majeure Event. A Party who intends to suspend its performance based on another’s Force Majeure Event shall notify the other Party in writing of the specific date of suspension of performance and the specific performance it will not undertake or continue. Upon resumption of performance by the Party initially excused due to a Force Majeure Event, all Parties shall immediately resume performance.

11.6.2.1 If a Force Majeure Event does prevent or is likely to prevent a Party’s performance for a period longer than fifteen (15) months, then any Party may give notice, at any time, to the other Party of its election to initiate negotiations to amend this Agreement, including the Schedule of

Performance. If a Party elects to initiate such negotiations, both Parties shall participate in such negotiations in good faith and in the spirit of cooperation for a period of at least ninety (90) days. At any time after the ninetieth (90th) day, either Party may elect to terminate negotiations by written notice to the other Party. If neither Party initiates negotiations pursuant to this Section 11.6.2.1, or if the negotiations do not result in an amendment acceptable to all affected Parties, then the period of Force Majeure Event shall end on the last day of the fifteen (15) month period.

11.6.2.2 Times of performance under this Agreement may also be extended in writing by City and LPC West.

11.7 Title of Parts and Sections; Interpretation. Any titles of the articles, sections, or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provisions. In construing or interpreting this Agreement, (a) singular pronouns and nouns shall be taken to mean and include the plural, and the plural shall be taken to mean and include the singular, and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require, (b) “shall” means mandatory and imperative, and (c) “including” means including without limitation.

11.8 General Indemnification. Each Party (the “**Indemnifying Party**”) agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the other Party) the other Party (the “**Indemnified Party**”) and its respective governing council members, members, managers, officers, directors, shareholders, agents, contractors and employees, from all suits, actions, claims, causes of action, administrative proceedings, arbitrations, enforcement actions, costs, demands, judgments, and liens arising out of the Indemnifying Party’s performance or non-performance under this Agreement, or arising out of acts or omissions of the Indemnifying Party or any of Indemnifying Party’s contractors, subcontractors, employees, agents, or other persons claiming under any of the aforesaid, except to the extent caused by the Indemnified Party’s willful misconduct or gross negligence. The provisions of this Section shall survive termination of this Agreement.

11.9 Applicable Law. This Agreement shall, in all respects, be governed, interpreted, and enforced under and pursuant to the laws of the State of Washington, without resort to any jurisdiction’s conflicts of law principles, rules, or doctrines.

11.10 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties under that provision have been materially altered or abridged by such invalidation, voiding, or unenforceability.

11.11 Venue. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the venue for such action shall be the Superior Court of Clark County, Washington.

11.12 Waiver. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver. No waiver by City or LPC West of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.

11.13 Binding Upon Successors.

11.13.1 This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor or assign of such Party who has acquired an interest in compliance with the terms of this Agreement, or under law.

11.13.2 The covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property. However, on the termination of this Agreement, such covenants and restrictions shall expire except to the extent of the specific terms and conditions of any recorded documents. Each and every contract, Ground Lease, or other instrument hereafter executed covering or conveying the Property shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed, or other instrument, unless City expressly releases the Property from the requirements of this Agreement.

11.14 Parties Not Co-Venturers. Nothing in this Agreement is intended to or does establish the Parties as partners, joint-venturers, co-venturers, or principal and agent with one another, nor any other association between the Parties.

11.15 No Third-Party Beneficiaries. No person or entity other than City, LPC West, and their permitted successors and assigns shall have any right of action under this Agreement, other than Mortgagees as expressly provided in this Agreement.

11.16 Time is of the Essence. In all matters under this Agreement, the Parties agree that time is of the essence.

11.17 Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Washington, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Washington, the period shall be extended to include the next Business Day.

11.18 Action by City. Except as may be otherwise specifically provided in this Agreement, whenever any approval, notice, direction, finding, consent, extension of time, request, waiver, or other action by City is desired, required or permitted under this Agreement, such action may be given, made, or taken by City Manager or by any person who shall have been designated in writing to LPC West by City Manager, without further approval by City Council. Any such action shall be in writing.

11.19 Discretion Retained by City. City's execution of this Agreement does not constitute approval by City and in no way limits the discretion of City as part of the regulatory permit and approval process under applicable City Code in connection with design, permitting, and construction of the Improvements.

11.20 Complete Understanding of the Parties. This Agreement constitute the entire understanding and agreement of the Parties with respect to the matters set forth in this Agreement. There is no other oral or written agreement between the Parties with regard to this subject matter. There are no oral or written representations made by either Party, implied or express, other than those contained in this Agreement.

11.21 Amendments. The Parties can amend this Agreement only by means of a writing executed by all Parties.

11.22 Implementation Agreements. The Parties acknowledge that the provisions of this Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the Parties under this Agreement. The Parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in general terms under this Agreement. If and when, from time to time, the Parties find that refinements or adjustments are desirable, such refinements or adjustments shall be accomplished through operating memoranda or implementation agreements mutually approved in writing and signed by the Parties, and which, after execution, shall be attached to this Agreement as addenda and become a part hereof. Operating memoranda or implementation agreements may be executed on City's behalf by City Manager or any person who shall have been designated in writing to LPC West by City Manager as having such execution authority. If a particular subject requires public notice or hearing, such notice or hearing shall be appropriately given. Notwithstanding the foregoing, nothing in this Section shall be deemed to require City to consider any request by LPC West for a waiver of any particular obligation as set forth herein.

11.23 Assignment. LPC West shall be permitted to partially or wholly assign this Agreement, the Deposit, and the rights of LPC West in connection therewith to a "LPC West's Affiliate" without the prior written consent of City, provided that LPC West delivers written notice no later than ten (10) days prior to the effective date of such assignment, which notice shall provide reasonable evidence to City that the assignee is a "LPC West Affiliate" as defined herein.

11.23.1 "**LPC West's Affiliate**" means (a) any entity that directly or indirectly controls, is controlled by, or is under common control with LPC West; (b) any entity at least a majority of whose economic interest is owned by LPC West; or (c) any single purpose entity formed to enter into the Ground Lease, develop, own, lease, sell, or otherwise deal with the Component of the Improvements for a specific Parcel, provided that such entity has entered into a development contract with LPC West, such that LPC West will manage the construction of the relevant Component of the Improvements. The term "**control**" means the power to direct the day-to-day management of such entity through voting rights, ownership, or contractual obligations.

11.23.2 Except as otherwise provided in this Section 11.23.2, LPC West shall not assign its rights under this Agreement without the prior written consent of City which may be granted, denied or conditioned in City's sole and absolute discretion.

11.23.3 No assignments shall relieve the assigning Party from its obligations under this Agreement unless expressly agreed to in writing by City.

11.24 Attorney Fees. If any action or proceeding of any nature whatsoever is commenced by either Party to interpret or enforce this Agreement or to collect damages as a result of the breach of any of the provisions of this Agreement, the substantially prevailing or non-defaulting Party in such action or proceeding, including any appellate proceedings, shall be entitled to recover from the losing or defaulting Party all reasonable costs and expenses, including, without limitation, attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, in addition to other amounts provided by law or other relief awarded by the court at trial or on appeal.

11.25 Dispute Resolution. If a dispute arises under this Agreement, which shall include the inability of the Parties to reach agreement on any issue or item contemplated by this Agreement, either Party may

notify the other in writing of the issue. Following such notification, the Parties shall meet and confer in an attempt to resolve the dispute or issue for a period thirty (30) days unless the Parties mutually agree to extend the period for meeting and conferring. A decision maker for each of the Parties shall attend and participate in at least one such meeting. At the conclusion of this period, if the dispute or issues are not resolved, the Parties shall mutually select a qualified mediator and submit the dispute or issues for resolution by mediation. If the Parties cannot agree to the appointment of a mediator within fifteen (15) days following the end of the 30-day meet and confer period, either Party may request the Presiding Judge of the Clark County Superior Court to designate a mediator. The Parties will accept the mediator so designated to mediate the dispute or issues. If the mediation fails, either Party may submit the matter to a court of competent jurisdiction for resolution. The Parties will split all costs and fees of the mediator.

11.26 Construction. The Parties acknowledge that they have each reviewed and revised this Agreement with their respective counsel and that the normal rule of construction that provides for ambiguities to be construed against the drafter shall not be applied when interpreting this Agreement.

11.27 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts, all of which, when taken together, shall be one and the same Agreement.

11.28 Press Releases. Any press release or public announcement of this Agreement or the transactions or projects contemplated by this Agreement, outside of a public meeting or as a result of a Washington Public Records Act request, will be coordinated and mutually agreed upon in writing by LPC West and City prior to any release.

*[Remainder of page intentionally left blank;  
signature pages follow.]*

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the Effective Date.

**CITY:**

**CITY OF VANCOUVER**, a Washington municipal corporation,

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest By:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LPC WEST:**

**LPC WEST LP**, a Delaware limited partnership

By: \_\_\_\_\_  
Patrick Gilligan, Executive Vice President

STATE OF WASHINGTON        )  
  ) ss.  
County of Clark            )

On this \_\_\_\_ day of \_\_\_\_\_, 2025, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the City of Vancouver, a Washington municipal corporation, which has executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said city, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Printed Name of Notary Public)

\_\_\_\_\_  
(Place of Residence of Notary Public)

(seal or stamp)

My Commission Expires: \_\_\_\_\_

STATE OF WASHINGTON            )  
  ) ss.  
County of Clark                 )

On this \_\_\_\_ day of \_\_\_\_\_, 2025, before me personally appeared Patrick Gilligan, to me known to be the Executive Vice President of LPC West LP, the limited partnership that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said partnership, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Printed Name of Notary Public)

\_\_\_\_\_  
(Place of Residence of Notary Public)

My Commission Expires: \_\_\_\_\_

(seal or stamp)

**EXHIBIT A-1**  
**LEGAL DESCRIPTION OF THE PROPERTY**

Title description obtained from that certain Commitment of Title Insurance issued by Fidelity National Title Company of Washington, dated October 24, 2025, Order Number 612902829 . Legal description is subject to change to the extent the foregoing commitment is updated.

For APN/Parcel ID(s): 049230000, 049360000, 049240000 and 049250000

**Parcel I**

A parcel of property located in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, City of Vancouver, Clark County, Washington with a portion of said parcel being portions of Lots 1, 2, 5, 6 and 7, all of Lots 3, 4 and 8 of Block 34, a portion of Lot 1 of Block 38, Town of Vancouver (commonly known as West Vancouver), according to the Plat thereof, recorded in Volume B of Plats, Page 40, Clark County records and further described as follows:

COMMENCING at the Northeast corner of said Block 38 and the South right of way line of West 6th Street;

THENCE North 87°39'52" West along the North line of said Block 38 and the South right of way line of West 6th Street 3.75 feet to the True Point of Beginning;

Thence South 02° 21'06" West, parallel with the East line of said Block 38, a distance of 75.46 feet;

Thence South 54° 08'54" East 219.17 feet;

Thence South 56° 07'10" East 55.26 feet;

Thence South 87° 39'52" East 55.87 feet to a point on the West right of way line of West Esther Street, said point being 40.00 feet West of the centerline of West Esther Street when measured at right angles to said centerline;

Thence North 02° 16'16" East along said West right of way line 178.45 feet to a non-tangent 57.50 foot radius curve to the left;

Thence along said non-tangent 57.50 foot radius curve to the left (the long chord of which bears North 49° 12'09" West 71.53 feet) an arc distance of 77.20 feet to a point on the South right of way line of West 6th Street, said point being 42.45 feet South of the centerline of West 6th Street when measured at right angles to said centerline;

Thence North 87° 39'52" West along said South right of way line 31.48 feet;

Thence North 76° 39'57" West along said South right of way line 12.84 feet to a point being 40.00 feet South of, when measured at right angles to, said centerline of West 6th Street;

Thence North 87° 39'52" West along said South right of way line 185.37 feet to the True Point of Beginning.

TOGETHER WITH all vacated streets lying within the above described parcel.

{01602765;9}

Exhibit A-1

EXCEPT that portion conveyed to the City Vancouver, a municipal corporation of the State of Washington, recorded June 20, 2005, under Auditor's File No. 4005368.

ALSO EXCEPT a parcel of property located in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, City of Vancouver, Clark County, Washington with a portion of said parcel being a portion of vacated Franklin Street and a portion of Lot 1 of Block 38, Town of Vancouver (commonly known as West Vancouver), according to the Plat thereof, recorded in Volume B of Plats, Page 40, Clark County records and further described as follows:

Commencing at the Northeast corner of said Block 38 and the South right of way line of West 6th Street;

Thence North 87° 39'52" West along the North line of said Block 38 and the South right of way line of West 6th Street 3.75 feet to the True Point of Beginning;

Thence South 02° 21'06" West, parallel with the East line of said Block 38, a distance of 75.46 feet;

Thence South 54° 08'54" East 29.98 feet;

Thence North 02° 21'06" East, parallel with the East line of said Block 38, a distance of 92.01 feet to a point on the South right of way line of West 6th Street;

Thence North 87° 39'52" West along said South right of way line 25.00 feet to the True Point of Beginning.

## **Parcel II**

ALL of Lots 3, 4 and portions of Lots 1, 2, 5, 6 and 7, Block 38 and a portion of Lot 1 of Block 45, Town of Vancouver (commonly known as West Vancouver), according to the Plat thereof, recorded in Volume B of Plats, Page 40, records of Clark County, Washington, located in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, described as follows:

COMMENCING at the Northeast corner of said Block 38, said Northeast corner being on the Southerly right of way line of West 6th Street;

THENCE North 87°39'52" West along the North line of said Block 38 and the Southerly right of way of West 6th Street, a distance of 3.75 feet to the TRUE POINT OF BEGINNING;

THENCE South 02°21'06" West, parallel with the East line of said Block 38, a distance of 75.46 feet;

THENCE South 81°55'26" West 87.91 feet;

THENCE South 36°00'24" West 85.42 feet to the Northeasterly right of way of the Burlington Northern Railroad and a 3777.22 non-tangent radius curve to the right;

THENCE along said Northeasterly line and along said 3777.22 Foot radius curve to the right (the long chord of which, bears North 45°35'30" West 242.42 Feet), an arc distance of 242.46 feet to a point on the Southerly right of way line of West 6th Street;

THENCE South 87°39'52" East along said Southerly right of way line of West 6th Street, 313.79 feet to the TRUE POINT OF BEGINNING.

{01602765;9}

Exhibit A-1

**Parcel III**

A parcel of property located in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, City of Vancouver, Clark County, Washington with a portion of said parcel being portions of Lots 1, 3, 4, 6, 7 and 8 and all of Lot 2, Block 35, and portions of Lots 6 and 7 of Block 34, Town of Vancouver (commonly known as West Vancouver), according to the Plat thereof, recorded in Volume B of Plats, Page 40, Clark County records and further described as follows:

Commencing at the Northeast corner of said Block 38 and the South right of way line of West 6th Street;

Thence North 87° 39'52" West along the North line of said Block 38 and the South right of way line West 6th Street 3.75 feet;

Thence South 02° 21'06" West, parallel with the East line of said Block 38, a distance of 75.46 feet;

Thence South 54° 08'25" East 219.17 feet to the True Point of Beginning;

Thence South 56° 07'10" East 55.26 feet;

Thence South 87° 39'52" East 55.87 feet to a point of the West right of way line of West Esther Street, said point being 40.00 feet West of the centerline of West Esther Street when measured at right angles to said centerline;

Thence along the West right of way line of West Esther Street the following courses:

Thence South 02° 16'16" West 57.44 feet;

Thence North 87° 40'36" West 2.83 feet;

Thence South 02° 16'30" West 16.39 feet to a 215.00 foot radius curve to the right;

Thence along said 215.00 foot radius curve to the right 136.60 feet;

Thence South 38° 40'39" West 12.46 feet to the Northeasterly right of way line of Burlington Northern Railroad;

Thence leaving said West right of way line and along the Northeasterly right of way line of Burlington Northern Railroad North 53° 58'44" West 58.85 feet to 3777.22 foot non-tangent radius curve to the right;

Thence along said Northeasterly right of way line and 3777.22 foot non-tangent radius curve to the right (the long chord which bears North 52° 36'24" West 117.85 feet), an arc distance of 117.85 feet to a point which bears South 36° 19'00" West from the True Point of Beginning;

Thence leaving said Northeasterly right of way line North 36° 19'00" East 168.93 feet to the True Point of Beginning.

EXCEPT that portion conveyed to the City Vancouver, a municipal corporation of the State of Washington, recorded June 20, 2005, under Auditor's File No. 4005368.

TOGETHER WITH all vacated streets lying with the above described parcel.

**Parcel IV**

{01602765;9}

Exhibit A-1

A parcel of property located in the Southwest quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, City of Vancouver, Clark County, Washington with a portion of said parcel being portions of Lots 5 and 6 of Block 34, a portion of Lots 6 and 7 and all of Lot 8 of Block 38, Town of Vancouver (commonly known as West Vancouver), according to the Plat thereof, recorded in Volume B of Plats, Page 40, Clark County records and further described as follows:

Commencing at the Northeast corner of said Block 38 and the South right of way line of West 6th Street;

Thence North  $87^{\circ} 39'52''$  West along the North line of said Block 38 and the South right of way line West 6th Street 3.75 feet;

Thence South  $02^{\circ} 21'06''$  West, parallel with the East line of said Block 38, a distance of 75.46 feet to the True Point of Beginning;

Thence South  $54^{\circ} 08'25''$  East 219.17 feet;

Thence South  $36^{\circ} 19'00''$  West 168.93 feet to the Northeasterly right of way line of Burlington Northern Railroad and a 3777.22 foot non-tangent radius curve to the right;

Thence along said Northeasterly right of way line 3777.22 foot non-tangent radius curve to the right (the long chord which bears North  $49^{\circ} 34'18''$  West 282.25 feet), an arc distance of 282.31 feet;

Thence leaving said Northeasterly right of way line North  $36^{\circ} 00'24''$  East 85.42 feet to a point that bears South  $81^{\circ} 55'26''$  West from the True Point of Beginning;

Thence North  $81^{\circ} 55'26''$  East 87.91 feet to the True Point of Beginning.

TOGETHER WITH all vacated streets lying with the above described parcel.

ALSO a parcel of property located in the Southeast quarter of Section 27, Township 2 North, Range 1 East of the Willamette Meridian, City of Vancouver, Clark County, Washington with a portion of said parcel being a portion of vacated Franklin Street and a portion of Lot 1 of Block 38, Town of Vancouver (commonly known as West Vancouver), according to the Plat thereof, recorded in Volume B of Plats, Page 40, Clark County records and further described as follows:

COMMENCING at the Northeast corner of said Block 38 and the South right of way line of West 6th Street;

THENCE North  $87^{\circ}39'52''$  West along the North line of said Block 38 and the South right of way line of West 6th Street 3.75 feet to the True Point of Beginning;

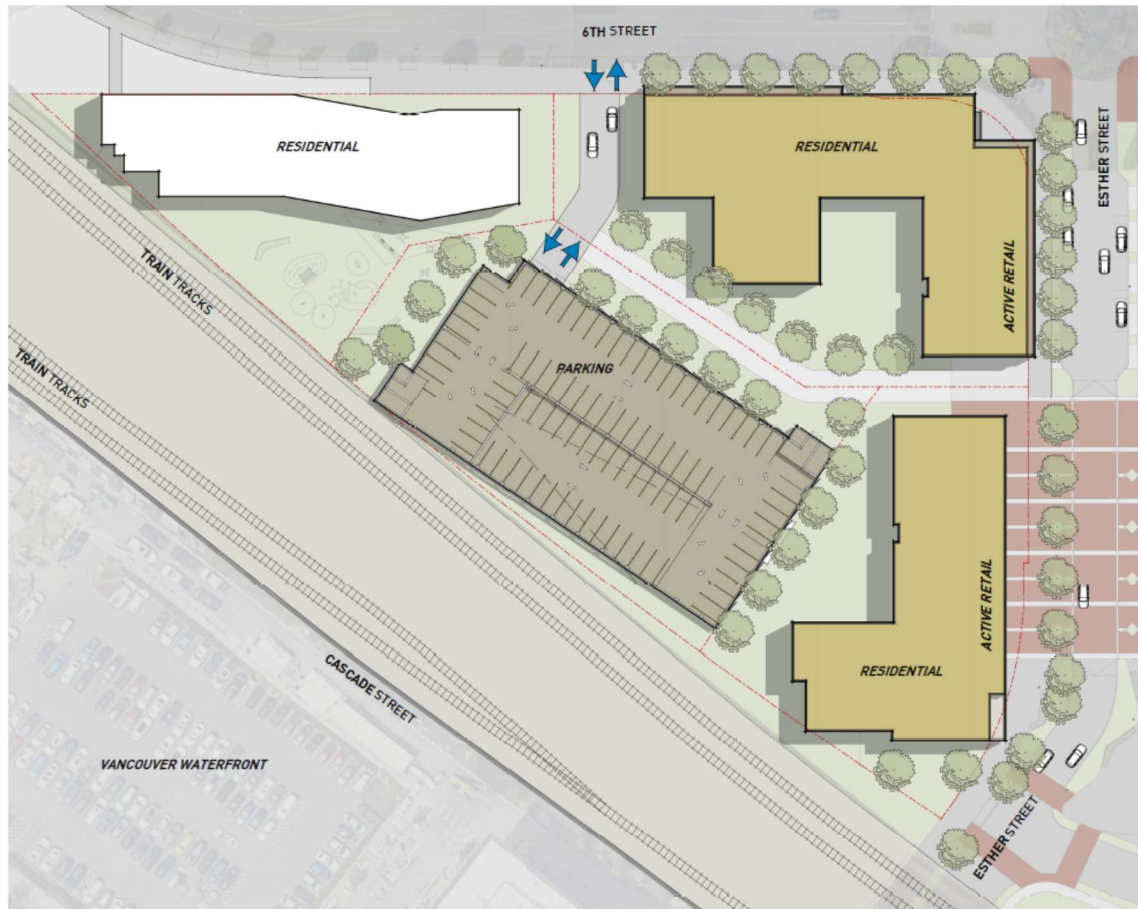
Thence South  $02^{\circ} 21'06''$  West, parallel with the East line of said Block 38, a distance of 75.46 feet;

Thence South  $54^{\circ} 08'54''$  East 29.98 feet;

Thence North  $02^{\circ} 21'06''$  East, parallel with the East line of said Block 38, a distance of 92.01 feet to a point on the South right of way line of West 6th Street;

Thence North  $87^{\circ} 39'52''$  West along said South right of way line 25.00 feet to the True Point of Beginning.

EXHIBIT A-2  
DEPICTION OF THE PARCELS



{01602765;9}

**EXHIBIT B**  
**100% Schematic Design Plans and Drawings**

[to be attached]

**EXHIBIT C**  
**Schedule of Performance**

This Schedule of Performance summarizes the proposed, anticipated schedule for various milestones under this Agreement and under the Ground Leases. Except as otherwise expressly provided below, the description of items in this Schedule of Performance is meant to be descriptive only, and shall not be deemed to modify in any way the provisions of the Agreement. Unless expressly noted, the Target Date of Completion noted below are goals not deadlines, and so long as LPC West uses commercially reasonable diligence and efforts to complete the milestones, the failure to complete a milestone by the corresponding Target Date of Completion shall not constitute a failure of a City condition or a default under the Agreement. For items noted, any failure to achieve the milestone by the Target Date of Completion provided below shall constitute an event of default under this Agreement, and shall entitle City to exercise its remedies under that Ground Lease, but shall not constitute a separate default under this Agreement.

Item	Milestone	Target Date of Completion
	<i>Pre-Closing on a Parcel, Pursuant to this Agreement</i>	
1.	City Council Approval of Affordable Housing conveyance	60 days after recording of Legal Lots <b>Completed.</b>
2.	Recording of Legal Lots	July 1, 2025 or within 60 days of land use approval, whichever is the earlier. <b>Completed.</b>
3.	Code Amendment Deadline	180 days after the Effective Date
4.	Submission of Application for Building Permit	Deadline: August 1, 2027 or within 12 months of the Code Amendment Deadline, whichever occurs first <sup>1</sup>
5.	Proof of Financing	Within 3 months of Submission of Application for Building Permit
6.	Permits Ready to Issue Subject to Payment of Permit Fees	Within 1 month of Proof of Financing
7.	Phase 1 Outside Closing Date	Within 1 month of Proof of Financing
8.	Recording of Access Easements	At Phase 1 Closing
	<i>Post-Closing on a Parcel, Pursuant to Ground Lease</i>	
9.	Commencement of Construction of Phase 1	Deadline: March 1, 2028, or within 4 months Submission of Approval of Building Permit whichever occurs first <sup>1</sup>
10.	Required Completion Date of Phase 1	Deadline: March 1, 2031, or within 3 years of commencement of construction. whichever occurs first <sup>1</sup>

<sup>1</sup> Failure to meet this Target Date of Completion deadline for this milestone shall expressly be an event of default under Section 8.2 of this Agreement.



**SCHEDULE 2.4.5**  
**Final Legal Lot Configuration**

[TO BE INSERTED]

**Schedule 3.2.4.1  
Form of Deed**

After recording, return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

---

Document Title:	Statutory Bargain and Sale Deed
Reference No(s). of Related Documents:	N/A
Grantor:	City of Vancouver, a Washington municipal corporation
Grantee:	_____
Legal Description (abbreviated):	_____
Additional Legal Description:	See Exhibit A
Assessor Property Tax Parcel/Account No(s).	_____

---

**STATUTORY BARGAIN AND SALE DEED**

The Grantor, CITY OF VANCOUVER, a Washington municipal corporation, for and in consideration of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), in hand paid, bargains, sells and conveys to \_\_\_\_\_, a[n] \_\_\_\_\_, the real estate situated in the County of Clark, State of Washington and legally described in the attached Exhibit A, subject to those matters set forth in the attached Exhibit B.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

GRANTOR: CITY OF VANCOUVER,  
a Washington municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF WASHINGTON        )  
  ) ss.  
County of Clark                )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the City of Vancouver, a Washington municipal corporation, which has executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said city, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said instrument.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Printed Name of Notary Public)

\_\_\_\_\_  
(Place of Residence of Notary Public)

(seal or stamp)

My Commission Expires:

**EXHIBIT A**  
**(to Statutory Bargain and Sale Deed)**

Property Legal Description

[To be inserted.]

**EXHIBIT B**  
**(to Statutory Bargain and Sale Deed)**

Permitted Encumbrances

[To be inserted.]

Schedule 3.2.4.2

Form of Assignment of Intangibles

ASSIGNMENT OF INTANGIBLES

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CITY OF VANCOUVER, a Washington municipal corporation ("Assignor"), hereby assigns, transfers, sets over and delivers to \_\_\_\_\_, a[n] \_\_\_\_\_ ("Assignee"), all of Assignor's right, title, and interest in and to all of the following: (a) all rights, privileges, licenses, and easements appurtenant to the real property described in the attached Exhibit A (the "Real Property"), including, without limitation, all minerals, oil, gas, and other hydrocarbon substances on and under the Real Property, as well as all development rights, air rights, and water rights; (b) all governmental approvals, entitlements, permits, warranties, guaranties, and development rights or credits related to the Real Property; and (c) all other intangible property owned by Assignor pertaining to the Real Property.

This Assignment of Intangibles shall be binding upon Assignor and shall inure to the benefit of Assignee and each of their respective successors and assigns.

IN WITNESS WHEREOF, Assignor has executed this Assignment of Intangibles effective as of \_\_\_\_\_, 20\_\_.

ASSIGNOR:

CITY OF VANCOUVER,  
a Washington municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**  
**(to Assignment of Intangibles)**

Real Property Legal Description

[To be inserted.]

**Schedule 4.1.3.3**

Ground Lease- Discounted Rent

Year	Rent Discount
1	100%*
2	100%*
3	50%
4	50%
5	25%
6	25%
7	0%
8	0%
9	0%
10	0%

\*Note: Year 1 and 2 referenced above reflects the 2-year rent abatement referenced in Section 4.1.3.3 of this Agreement.

**Schedule 6.2.1**  
**Green Building Measures**

LPC West agrees to meet the following green building measures. Failure to do so shall be considered a default under the Agreement.

**Energy Efficiency**

- All buildings to comply with Washington Clean Buildings Performance Standards
- All buildings will be fully electric, with the exception of restaurant space which may require gas for cooking
- EnergyStar appliances will be utilized as much as possible
- Low flow plumbing fixtures will be utilized
- High efficiency LED light fixtures will be utilized

**Transportation**

- 100% of the parking stalls will be EV charging ready
- 10% of stalls will have installed and operational EV charging stations
- Dedicated bicycle storage and repair facilities will be provided on the Property

**Lighting**

- Dark sky lighting will be utilized to minimize light pollution

**Heat Island Mitigation**

- Approximately 140,000 square feet of asphalt parking lot will be removed
- Aim for Silver Leaf designation in City of Vancouver TreeCAP Program
- Drought resistant vegetation and light-colored paving surfaces used in open spaces

**Rainwater Management**

- Bioswales in landscaped areas to harvest rainwater

**Material sourcing**

- Materials from local suppliers will be used as much as possible (e.g., lumber, steel, concrete, landscaping, finishes)
- Recycled and renewable materials will be used as much as possible (e.g., asphalt, flooring)

**Schedule 6.2.3  
Workforce and Business Development Strategy**

**I. Project Goals**

**A. Participation Goals**

- Local Business participation:
  - BIPOC General Contractor – 100%
  - Minimum BMWESB participation goal – 20%; Aspirational BMWESB participation goal – 40%
  - Minimum SW Washington Subcontractor (SWS) goal – 20%; Aspirational SW Washington Subcontractor (SWS) goal – 30%
- Apprenticeship Programs:
  - Goal to achieve 20% of labor hours in each apprenticeship trade for contracts of \$750,000 or more.
  - Develop a plan in collaboration with Workforce Southwest Washington and NAMCO that does not cannibalize specific apprenticeship goals for BIPOC and women regarding journey level positions. (*i.e.*, track BIPOC and women journey level participation towards 20% goals).
- Endeavor to maximize employment opportunities for BIPOC and women.
- Bring the highest value possible to the Owner for each contracting opportunity.
- Engage the local community through the bidding process.

To accomplish these project goals, LPC West’s general contractor will closely follow the approach laid out in this Contracting Plan. The entire project team will collaborate, employing strategies and pragmatic solutions to ensure the Project creates opportunities, builds community, and strives to meet the goals outlined in this plan.

This Contracting Plan does not apply to contracts in effect as of the Effective Date, to contracts with a dollar amount of less than \$200,000, or to scopes of work requiring highly specialized contractors thereby making compliance unreasonable or impractical (e.g., elevators). The dollar amounts of the foregoing contracts will be removed from the total contract price when determining progress toward or achievement of the goals set forth in this Contracting Plan.

**B. BIPOC Return on Investment (B-ROI)**

In addition to working to achieve the participation goals set forth above, LPC West believe it is also important to help grow the long-term capacity of BMWESB businesses. Achieving an aspirational percentage goal does little for the community if the firms working on the projects do not have sustained growth after completion of the project. We hope that with NAMCO and Workforce Southwest Washington support, LPC West’s general contractor will successfully engage the BMWESB community and provide meaningful opportunities on this project and on future projects.

Many project sponsors and owners are unaware that BIPOC Prime Contractors (BPC) directly support the growth of BIPOC Subcontractors (BSC) and businesses. This growth enhances the

subcontractor community for all prime contractors and leads to a sustainable and more price-conscious subcontractor community in the long term.

## **II. Outreach**

### **A. General Outreach**

LPC West's general contractor will continuously update its comprehensive list of BMWESB firms by utilizing the following means of contact:

- General contractor's bid list
- Office of Minority & Women's Business Enterprises (OMWBE)
- Procurement Technical Assistance Centers (PTAC)
- Southwest Washington Contractors Association (SWCA)
- Greater Vancouver Chamber of Commerce - member
- National Association of Minority Contractors (NAMCO)
- Oregon Association of Minority Entrepreneurs (OAME)
- Workforce Southwest Washington (WSW)
  - Affiliate apprenticeship programs include:
    - Evening Trades Apprenticeship Preparation (ETAP)
    - Constructing Hope Pre-Apprenticeship Program (ICCDC)
    - Oregon Tradeswomen, Inc.
    - Portland Youth Builders
    - Urban League of Portland
    - Worksystems, Inc.
    - POIC Pre-Apprenticeship

In addition, LPC West's general contractor will:

- Host a minimum of two significant outreach events focusing on this Contracting Plan.
  - Meetings will cover project scope, bid and project schedule, workforce training requirements, and preliminary technical assistance.
  - All meetings will include key members of the project team.
  - Project staff will follow up with all meeting attendees to continue to foster meaningful relationships.
- Advertise subcontracting work and potential BMWESB business opportunities in local minority newspapers in SW Washington and Portland, including, but not limited to: The Columbian, The Skanner, El Hispanic News, Asian Reporter, and Portland Observer.
- Foster majority and BIPOC business introductions before bidding to promote positive sub-contracting partnerships. This will be accomplished at pre-bid meetings and through the efforts of NAMCO, SWCA, and LPC West's general contractor's preconstruction team.
- Contact BMWESB businesses that perform the appropriate type of work through personal meetings, phone, email, and text, informing them of the pre-bid meetings and all bidding opportunities.
- Provide a calendar of bidding events and outreach opportunities. The project will also be highlighted at NAMCO's monthly membership meetings in an attempt to increase interest and share contracting opportunities.

*B. Focused Outreach and Technical Assistance*

- LPC West's contractor and NAMCO will identify BMWESB businesses that need help and attempt to develop a payment system that supports such businesses' cash flow, if and to the extent feasible.
- **"No question is a bad question"** bidding climate.
  - Plans will be available in the offices of LPC West's general contractor, SWCA and NAMCO and on the corresponding websites to promote a "safe" bidding atmosphere.
- BMWESB and SWS MEP opportunities capacity and portfolio building. Before the bid period, LPC West's general contractor, with the support of NAMCO, will identify qualified MEP businesses that are interested in pursuing the Project. LPC West's general contractor will conduct informational meetings where firms will be presented with essential information about the project. If smaller firms are interested in partnering with larger firms, LPC West's general contractor will make business introductions and recommend a scope package to help to facilitate partnering structures.
- LPC West's general contractor will use "Right Size" Bid Packages to eliminate barriers to entry and attract bidders. Larger packages will be broken apart to entice smaller companies to bid on the smaller work packages that are more achievable.

*C. Youth Participation Opportunities*

To help heighten awareness of the opportunities in the construction trades, LPC West's general contractor will:

- Create construction site visit opportunities for students, including, among other topics, lessons on building, math, and career coaching. During site visits, we will investigate options for students to be involved in all aspects of the construction process.
- Create awareness of construction as a viable career in the BIPOC community. Facilitate project tours with BIPOC youth involved in the following four organizations: The Blueprint Foundation, Elevate Oregon, SEI, Black male achievement group, and Building Blocks to Success.
- Require subcontractors awarded over \$1 million in contracts to register for the Northwest Youth Careers Expo, which is another opportunity to expose students to the broad and diverse construction world.

**III. Bidding Strategies**

LPC West's general contractor will utilize the following procurement methods for subcontractor bidding and award:

- A. Modified Bidding – Low bid with weight given to BIPOC and MWESB firms
- B. Bidding – Targeted Firms Only
- C. Price/Qualifications (RFP)
- D. Low Quote (Less than \$100,000, at which level attempting to achieve Contracting Plan goals is optional)

**A. Modified Bidding – Low Bid with Weight Given to BIPOC and MWESB Firms:**

A large portion of the subcontracted work will be procured through a modified, low bid process. A traditional low-bid process would exclude from the evaluation factors other than the submitted price. The LPC West general contractor-modified bid evaluation process for the publicly bid scopes will be evaluated based on a scoring system that considers BMWESB certification. This method gives the most weight to the low bid and also considers BMWESB certification in a competitive environment.

The scoring criteria for public bid scopes are as follows:

	<u>Maximum Points</u>
Bid Price	90 Points
Certified BMWESB	10 Points

The lowest responsive\* bidder will be awarded 90 points. The remaining bidders will receive points based on the percentage amount that they are higher than the low bidder.

**Example:** If the low bid is \$200k and the high bid is \$225k, the high bid is 12.5% higher  $(225-200)/200$ . In this case, the high bid would receive a 12.5% deduction from the 90 possible points resulting in 78.75 points  $(90 \times (1-.125))$ . If the 225k subcontractor also has BMWESB certification, 10 extra points would be added to the 78.75 score for a total score of 88.75. In this example, with the adjusted score, the \$200k bidder would still win the bid with 90 points versus the BMWESB \$225k bid with 88.75 points.

**BMWESB Certification:** As noted above, all certified BMWESB bidders receive 10 points for their bid submission. Suppose a non-certified firm submits a bid that includes materials procured through BMWESB certified suppliers, or there are second tier BMWESB certified subcontractors included. These values will be listed on the bid form, and a pro-rated amount of the 10 points available will be awarded. For example, if a lower tier BMWESB firm represents 50% of the value of the total subcontract, the bid will receive an additional 5 points.

LPC West and its general contractor will evaluate bids based on the following:

- Bid Proposal:
  - Completeness of scope
  - Price
  - Equity participation
  - Ability to meet apprenticeship goals
  - Ability to meet Project contract requirements
  - Ability to meet Project schedule
- Prequalification Status:
  - Similar project experience
  - Safety record
  - Current workload (capacity)
  - Ability to meet LPC West’s general contractor’s insurance requirements

If the winning bid, as calculated by the process described above, is outside the construction budget, the range of industry standards, or both, LPC West reserves the right to award to the next responsible bidder or re-bid based upon the bidding protocol described above.

### **B. Public Bidding – Targeted Firms Only**

To achieve BMWESB subcontractor participation goals, a portion of the subcontracted work for select trades will be procured through a competitive bid process that includes only certified BMWESB firms. This approach allows the project team to significantly increase the chances of subcontracting with a BMWESB certified firm while fostering a competitive bid environment. Scopes can be tailored to match the capabilities of BMWESB firms.

Selection of the portion of the work or the trades eligible for this type of bidding will be based on the following criteria, which has been developed to ensure a competitive process that provides LPCW with the best value:

- That there are no less than three (3), but ideally five (5) certified firms in the specified trade.
- That no fewer than three (3) certified firms in the specified trade have the skill and experience to perform the scope of work.
- That a member of the general contractor team has received a verbal commitment to bid from no fewer than three (3) firms in the specified trade.

If all submitted BMWESB bids are outside the range of the construction budget, industry standards, or both, LPC West reserves the right to re-bid based on the public bidding protocol.

The Summary of Bid Packages below identifies the scope of work that will be procured through this BMWESB competitive bid process.

### **C. Price / Qualifications (RFP)**

As it is critical to schedule and design to secure specific trades early, we recommend selecting and awarding Mechanical, Electrical, Plumbing, and Fire Protection trades/scopes using a Request for Proposal (RFP) process that evaluates both price and qualifications of the subcontractors in a competitive environment. Before the bid period, LPC West's general contractor, with support from NAMCO and other supporting organizations, will identify qualified MEPF BMWESB and Non-Certified businesses that are open to mutually beneficial partnering opportunities. We will make business introductions and help to facilitate partnering structures.

### **D. Low Quote (Less than \$100,000)**

It is intended that the low quote method of procurement for scopes under \$100,000 will be used, which amounts are excluded from and need not be counted toward the Contracting Plan goals, including but not limited to the following:

- Modeling/Revit Services
- Hazardous Materials Monitoring
- Dumpsters/Trash Removals
- Surveying

#### **IV. Bid Award Process**

Once all points are calculated, the subcontractor with the most points will be tentatively awarded the project.

- If the tentative award goes to a subcontractor with no points for their BMWESB contracting plan, the construction project team will meet with the tentative subcontractor to help support the contractor in meeting at least one of the goals of this Contracting Plan.
- LPC West's general contractor will meet with the tentative subcontractor and further review bids for completeness. Project schedule, staffing, and goals will be further discussed.
- Once all of the general contractor's subcontractor bid protocol has been met, the results of the bid process will be made public. LPC West's general contractor will hold a debriefing session with any subcontractors that request a meeting.

**Schedule 6.2.4  
Design Guidelines**

**WATERFRONT GATEWAY DESIGN GUIDELINES**

**Building Design**

- Façade articulation should reinforce human scale by conveying occupancy types utilizing strategies as balconies, bay windows and operable windows for residential and hospitality uses, solar screening and rhythmic windows patterns and spacing for office, clear glass and signature entries for retail.
- All building elevations should be addressed in the architectural design with the same degree of detail, proportion, and materials. However, each building should have distinctive architectural characteristics to create interest.
- Residential unit ground floor entrances shall include elements that provide transitional space between public and private realm such as landscape spaces, low walls, stoops, porches or recessed entry.
- The following are prohibited exterior building materials: plastic laminates, glossy or large expanses of acrylic or plexiglass, pegboard, mirror, highly polished or plated metals (except as trim), mirrored glass, vinyl, fabric or paper wall coverings, plywood or particle board, sheet or modular vinyl, shingles, shakes, and rustic siding are prohibited.
- Building materials shall not present a hazard to birds or other wildlife.
- Screen structured parking and integrate into overall building design. Screening provides an opportunity to enhance building design through the use of art, green walls, and innovative materials.
- Roof top mechanical equipment shall be designed into the building form whenever possible and screened with complementary building materials from the building when not possible to integrate into the building design.
- Locate loading docks and service areas, including trash collection facilities and utility transformers, internal to the building, including the truck parking.

**Landscaping**

- Incorporate low-impact development strategies such as vegetated roofs, permeable pavement, and bio-retention cells (raingardens), where feasible.
- Use the preferred native and adaptive plant species list (attached) for all at-grade planting areas.

**Sustainable Site and Development Design**

- All new buildings are to be constructed to a minimum LEED Gold Certification or similar equivalent or better
- Incorporate low-impact development strategies such as vegetated roofs, permeable pavement, and raingardens, where feasible.
- Incorporate low-impact development practices in the site and landscape where feasible.
- Integrate ecological landscape elements in site designs.

**Lighting**

- All building mounted or façade lighting (in-grade, façade mounted, and entry lighting) should be carefully selected for scale, finish, appropriate light output, and consideration of light pollution reduction and to not create hazards for birds or other wildlife.

- In grade and up lighting shall be minimized.
- Outdoor decorative lighting in the public plazas, such as string lighting and other forms of specialty overhead lighting (“Outdoor Specialty Lighting”) is encouraged to provide points of interest and an attraction for the public. A plan for the Outdoor Specialty Lighting shall be submitted to the City for review and approval.

**Bicycle Parking**

- Bicycle parking shall be provided for long-term (residents, hotel visitors and employees) and short-term (customers and visitors) within each block and building.
- Long-term bicycle parking shall be provided (per City Code Bicycle Parking Standards and Guidelines) within the building at the following rates:

**Long Term Bicycle Parking Requirements**

Land Use	Parking Requirement
Residential	1 Space/ 4 Dwelling Units
All Other Uses	1 Space/3,000 SF of Floor Area

- Long-term bicycle parking shall be provided in an accessible and safe location that is convenient to building occupants. Signing shall be provided where the location is not clearly evident from public ways providing access to the building.
- Short-term bicycle parking may be provided within or outside the building at the following rates:

**Short Term Bicycle Parking Requirements**

Land Use	Parking Requirement
Residential	1 Space/ 20 Dwelling Units
All Other Uses	1 Space/3,000 SF of Floor Area

- Short-term bicycle parking shall be positioned in visible areas with appropriate lighting, where not subject to vehicle traffic and within 50 feet of the building entrance. At least 50% of the spaces shall include rain protection. Bicycle parking shall be provided consistent with the *City of Vancouver Bicycle Parking Standards and Guidelines*.

**Signs**

- All signs shall comply with the provisions of City Code Section 20.960 Signs for number, location and size restrictions. Free standing, sidewalk signs and monument signs intended to advertise uses within the development are prohibited. Kiosk, wayfinding and interpretive signage intended to promote a comprehensive project Wayfinding Program shall be allowed.
- Individual buildings that accommodate multiple businesses and require signage for each business shall define the size, number, and locations of signs. The design of signs shall be reviewed and approved by the City and building design review process to ensure the signage is integrated into the architecture and overall development.
- Signs shall be constructed of high quality, durable materials.
- Signage shall be appropriate for its intended use such as residential, office and retail.
- Window signage is limited to business name, logo and hours of operation in white vinyl, sized no more than 1 square foot for every 5 feet of linear storefront.

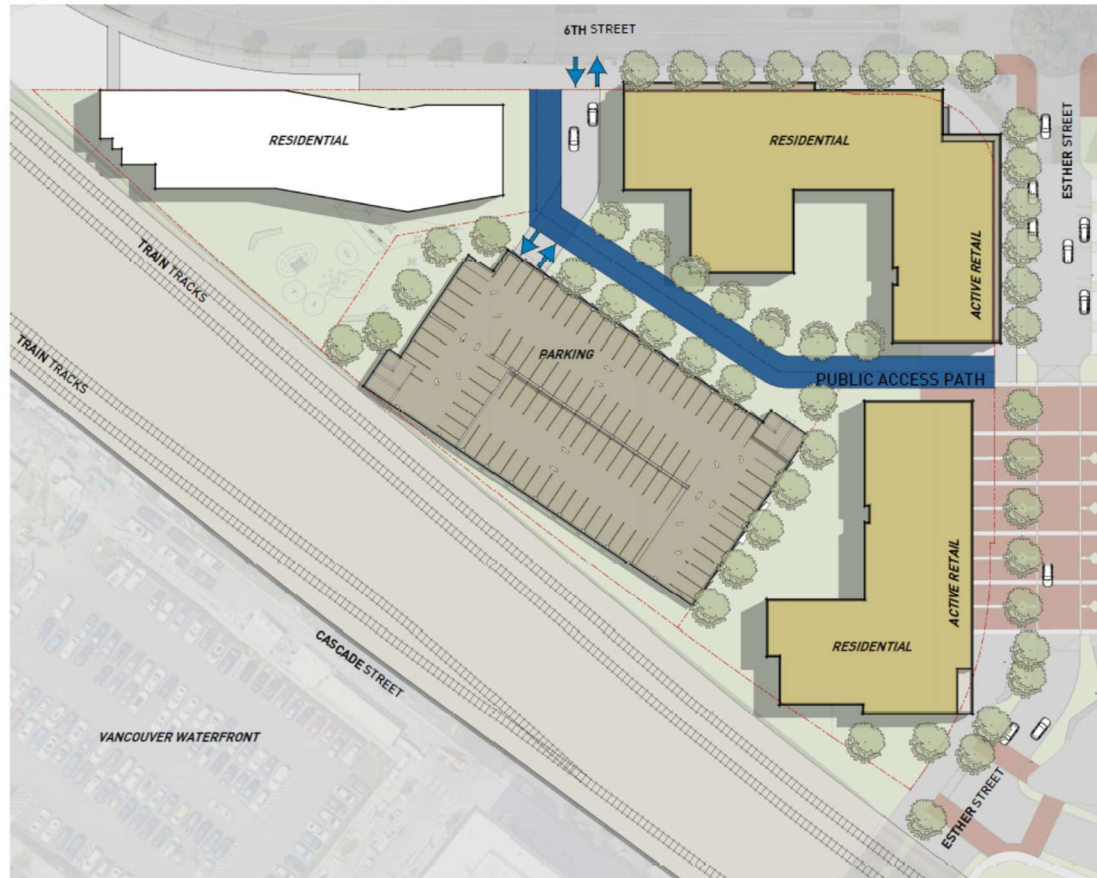
- Exposed raceways are not permitted.
- All signs shall be unlit, halo lit or indirectly lit.
- Dedicated signage for the parking structure shall be installed and located where visible from the public right of way.

### **Plazas and Open Space**

- A variety of materials are envisioned in the parks and open space system. Where possible, local and regional materials should be used for paving, walls and landscape features.
- Site furnishings, coordinated with paving materials and lighting, help define the character of public places and can play a key role in creating a unified character in urban areas characterized by a variety of architectural styles. Site furnishings include benches, trash receptacles, recycling receptacles, bollards, bike racks, landscape structures, and drinking fountains.
- All site furnishings should be durable, well made and easily maintained.
- Stand-alone furnishings should be limited in favor of integrating seating, receptacles and planters into landscape walls where grade changes occur alongside pathways and park edges. These are intended to provide places for social interaction, viewing of the river, eating, and spectator seating for small performances. Where they are required, locate modular furnishings such as free-standing benches, planters, kiosks, patio seating and receptacles to the edges of the plaza and/or parallel to the flow of pedestrian and bicycle movements, to allow continuous access and maximize flexible use of the plaza.
- Avoid large exposed faces without texture or articulation that are easily tagged or vandalized. Avoid continuous edges that exceed 36" on surfaces that can be accessed by skateboards. Where possible, skateboard deterrents should be integrated into the design of furnishing components to avoid add-on applications at a later date.

Schedule 6.2.6

Open Space



## Schedule 6.2.7

### Small Business Marketing and Outreach Plan

#### Vision

The vision of ground floor retail is as a vibrant marketplace for local, small retailers, to promote the City of Vancouver's culture and diversity, creating a community of like-minded people. LPC West and the City of Vancouver will work collaboratively to ensure this vision is met by using commercially reasonable effort to adhere to this Small Business Marketing and Outreach Plan. This Plan shall survive the term of the Amended and Restated Disposition and Development Agreement between LPC West and the City of Vancouver dated January 15, 2026.

#### Context & Premises

Retail is approximately 9,000 square feet (plus or minus 20%) located in Buildings 2 and 4, more specifically outlined on Exhibit A, attached.

In order to reserve space for small and local businesses, Formula Retail will be prohibited from leasing more than 40% of available space. For the purposes of this Plan, Formula Retail shall be defined as a business with more than 11 locations within the United States. Regional Formula Retailers headquartered or founded in the Portland MSA are not prohibited from leasing space in Makers Alley. For the purposes of this Plan, Regional Formula Retailers are defined as businesses with less than 10 locations in the Portland Metro Area.

#### Design

With the intent of attracting smaller local tenants, will be designed with the following elements:

- Shared restrooms and access corridors and back-of-house facilities will be provided to lower start up and maintenance costs for tenants and maximize point-of-sale efficiencies.
- Open floor plan will provide a minimal need for typical retail tenant improvements which will help lower startup costs and allow for a variety of tenant sizes.
- A minimum of five (5) tenant spaces will be maintained to ensure that small spaces remain available.

#### Marketing and Outreach

LPC West, its successor or assignee, will do the following to give non-Formula Retail an opportunity to lease the retail spaces:

- LPC West will work directly with the City of Vancouver to generate a local/small business email distribution list, that will be utilized to ensure that local small businesses are informed of the space availability during lease up.

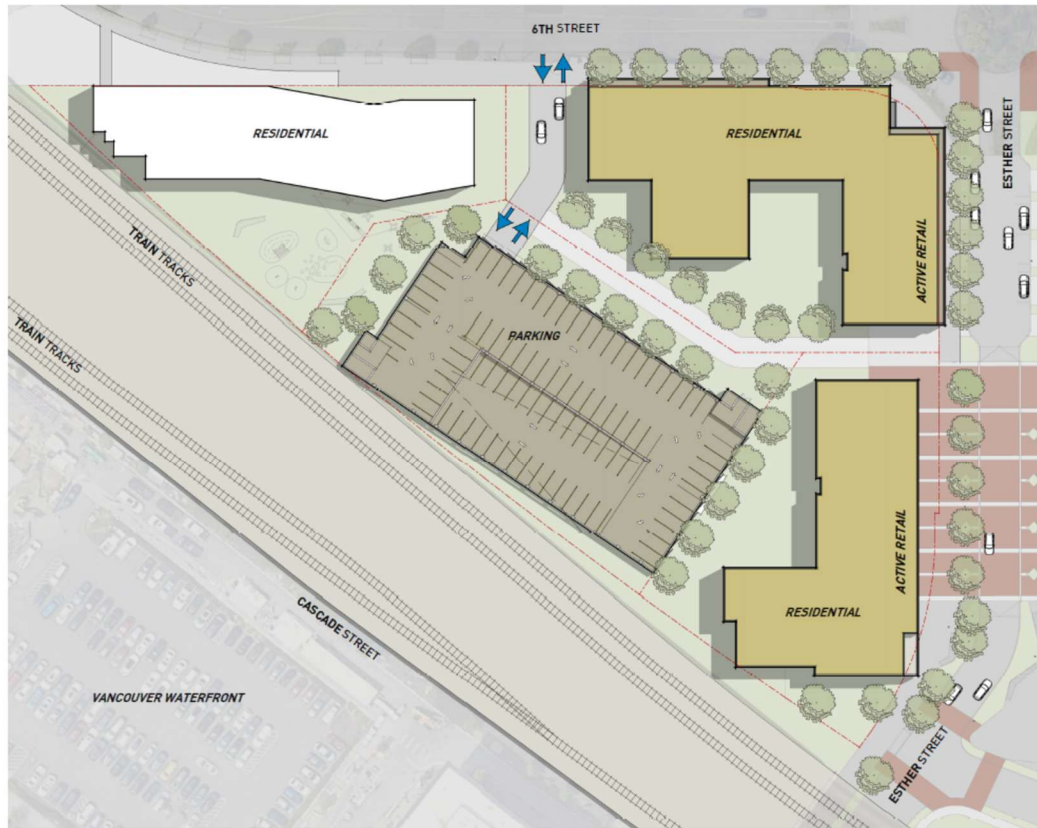
Prior to completion of construction of the building LPC West along with the support of community organizations will heavily promote the retail to the local, small business community, such as host hard hat tours and/or promotional events.

- LPC West will create a flyer highlighting the vacancies, as vacancies come up, and share first with the local/small business email distribution list that was created by the City and LPC West.
- LPC West and the City will work collaboratively on the programming of the plazas adjacent to Makers Alley to help drive sales.
- For the first forty-five (45) days a space becomes available/vacant, LPC West will use commercially reasonable efforts to lease only to local/small businesses and only send to the local/small business email distribution list that will be jointly created between the City and LPC West.
  - If a local/small business engages and begins trading either a letter of intent or request for proposal, LPC West will not market that space to a non-local/small business until that deal is no longer actively being negotiated from either side. That timeline would be fourteen (14) days with no new paperwork being traded back and forth.
  - If no local/small business is interested in the space then, in the interest of avoiding vacant retail spaces, LPC West will be able to extend its marketing efforts to non-local small businesses.
- For the avoidance of doubt, the selection of tenants is at LPC West's sole discretion.
- The marketing and outreach requirement will survive as long as LPC West maintains a controlling interest in Building 2 or 4. LPC West will use commercially reasonable efforts to transfer this Plan to a new owner and coordinate between any new owner and the City to enable a smooth transition.

### **Lease Terms**

- All terms shall be market terms, including, but not limited to Rate, Term, Tenant Improvement Allowance, Free Base Rent.

EXHIBIT A to Schedule 6.2.7  
SITE PLAN



## Schedule 6.2.9 Tree Plan



**LEGEND**

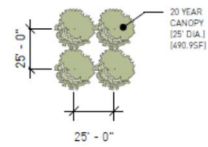
- ON-SITE TREE
- STREET TREE

**CONCEPTUAL TREE LOCATIONS**

During the previous design and community engagement phases goals such as flexible plaza space, public event space, accessible pedestrian circulation, weather protection, public art, decorative lighting, safety, and retail activation were highlighted. The current design seeks to balance all goals. Block Y is primarily envisioned as an important civic plaza, highly visible from Esther Street, and activated by retail frontages.

TreeCAP Silver Leaf certification requires 15% canopy coverage on commercial lots.

**Block X:**  
 $118,243\text{sf} \times 15\% = 17,736\text{sf}$  of tree canopy required  
 $17,736\text{sf} / 490.9\text{sf} = 37$  trees required for Silver Leaf  
 25 trees shown on site (12,273sf) + 24 street trees (5,891sf) provided  
 18,164sf of total tree canopy and 49 total trees provided on Block X



20 YEAR CANOPY (25' DIA.) (490,95F)

Oregon White Oak (*Quercus garryana*) was used as a basis of design for these diagrams. The final design will include a variety of native and native adaptive trees, shrubs and groundcovers. Where space allows, large trees will be used to create natural shade and limit the heat island effect. In small spaces, such as around residential patios, multiple small or medium trees may be used in place of a large tree.



BLOCK X - TREE CANOPY  
**1.3**

**Schedule 7.1.4  
Environmental Reports**

1. Memorandum re. Summary of Site Conditions and Earthwork Considerations; Waterfront Gateway – Blocks X and Y; West 6<sup>th</sup> Street and Esther Street; Vancouver, Washington, prepared by NV5, dated December 6, 2022.
2. Environmental Subsurface Investigation Report; Waterfront Gateway – Blocks X and Y; West 6<sup>th</sup> Street and Esther Street; Vancouver, Washington, prepared by NV5, dated February 1, 2023.
3. Phase I Environmental Site Assessment; Waterfront Gateway – Blocks X and Y; 6<sup>th</sup> Street and Esther Street; Vancouver, Washington, prepared by NV5, dated June 22, 2022.
4. Phase I Environmental Site Assessment; 404 West 4<sup>th</sup> Street and 411 West 5<sup>th</sup> Street; Vancouver, Washington, prepared by Stantec Consulting Services (Stantec), dated May 4, 2016.
5. Phase I Environmental Site Assessment; 503 and 615 West 6<sup>th</sup> Street and 400 Esther Street; Vancouver, Washington, prepared by Stantec dated May 5, 2016.
6. Phase II Environmental Site Assessment Report; West of City Hall (503 and 615 West 6<sup>th</sup> Street and 400 Esther Street); Vancouver, Washington, prepared by Stantec, dated August 2, 2017.
7. Supplemental Phase II Environmental Site Assessment Report; City-owned Tax Lots West and South of City Hall; Tax Lots 49305000, 49300000, 49250000, 49230000, 49240000, 49290000, 49315000, 49305000, 49300000, 48900000, 48890000, 48860000 and 48852000; Vancouver, Washington, prepared by Stantec, dated December 23, 2020.

**GROUND LEASE**

This **GROUND LEASE** (“**Lease**”) is made by and between the **CITY OF VANCOUVER**, a Washington municipal corporation, hereinafter referred to as “**Lessor**”, and \_\_\_\_\_ **LLC**, a [Delaware] limited liability company, hereinafter referred to as “**Lessee**”. Capitalized terms have the meanings set forth in the Glossary of Terms attached hereto as Exhibit “C” or as defined elsewhere in this Lease.

**WITNESSETH:**

NOW, THEREFORE, in consideration of the terms, covenants and conditions set forth in this Lease, Lessor and Lessee mutually agree as follows:

**1. BASIC LEASE PROVISIONS:** This Section 1 sets forth the basic lease provisions of this Lease, except as they may be modified in the body of the Lease.

1.1. EXECUTION DATE; \_\_\_\_\_, 202\_\_ (“**Execution Date**”)  
EFFECTIVE DATE: \_\_\_\_\_, 202\_\_ (“**Effective Date**”).

1.2. PREMISES DESCRIPTION: The area depicted on Exhibit “A”, a legal description of which is set forth on Exhibit “B” attached, consisting of a site area of approximately \_\_\_\_\_ square feet, more or less, commonly known as Parcel \_\_\_\_ (the “**Premises**”).

As used herein, the “**Project**” shall mean the Premises as improved by the Improvements to be constructed upon Premises by Lessee in accordance with the terms of this Lease and that certain Land Disposition and Development Agreement (Waterfront Gateway Development), by and between Lessor and LPC West LP, a Delaware limited partnership, dated October 9, 2023 (the “**DDA**”). Lessee shall obtain a Certificate of Occupancy (as defined in Exhibit “C”) with respect to the Initial Improvements (as defined in Exhibit “C”) no later than the three (3) years after the Commencement of Construction (the “**Project Deadline**”), which Project Deadline shall be extended one (1) day for each day of Force Majeure Delay or Lessor Delay. For purposes of this Section 1.2, Force Majeure Delay shall include delays by Lessor or other governmental entities in issuing Permits necessary to construct the Initial Improvements (“**Permit Delays**”); provided, that, Lessee timely applies for such Permits and thereafter diligently pursues obtaining such Permits.

1.3. TERM: Initial Term:  
Fifty (50) years beginning on the [Effective Date] (the “**Term Commencement Date**”) and ending on the last day of the calendar month in which the fiftieth (50<sup>th</sup>) anniversary of the Term Commencement Date occurs (the “**Initial Term**”).

Option Terms:  
The Lessee is granted the option to extend this Lease for two (2) consecutive fifteen-year (15) terms. The Option Term(s) must be exercised in accordance with the provisions of Section 4.2 of this Lease.

1.4. RENT:

“Rent” shall mean Base Monthly Rent payable under this Lease, along with all Leasehold Excise Tax applicable thereto.

Base Monthly Rent: The “Base Monthly Rent” is as follows:

[Note: After creation of the Legal Lots, rent will be determined for each Parcel in accordance with Section 4.1.3 of the DDA and inserted into each GL.]

Years of Initial Term	Base Annual Rent	Base Monthly Rent
1	\$	\$
2	\$	\$
3	\$	\$
4	\$	\$
5	\$	\$
6	\$	\$
7	\$	\$
8	\$	\$
9	\$	\$
10	\$	\$
11	\$	\$
12	\$	\$
13	\$	\$
14	\$	\$
15	\$	\$
16	\$	\$
17	\$	\$
18	\$	\$
19	\$	\$
20	\$	\$

Commencing on the Term Commencement Date, Base Monthly Rent shall be abated for a period of two (2) years and discounted for a period of four (4) additional years beginning on the Term Commencement Date in accordance with following schedule:

Year	Rent Discount
1	100%
2	100%
3	50%
4	50%
5	25%
6	25%

Commencing on the first anniversary of the Term Commencement Date and continuing annually thereafter, including during the Rent Abatement Period, Base Monthly Rent shall be adjusted based on the change in the Consumer Price Index (Seattle-Tacoma-Bellevue, WA) from the prior twelve (12) months, with a floor of two and one-half percent (2.5%) and a cap of five and one-half percent (5.5%).

Commencing on the initial twentieth (20<sup>th</sup>) anniversary of the Term Commencement Date and on each subsequent twentieth

(20<sup>th</sup>) anniversary of the Term Commencement Date thereafter during the Initial Term and any Option Term (each, an “**Adjustment Date**”), the then current Base Monthly Rent shall be adjusted to the lesser of (i) Fair Market Rent as set forth in this Section 5.6; and (ii) an amount equal to ten percent (10%) more than Base Monthly Rent in effect immediately prior to the Adjustment Date.

- 1.5. CURRENT LEASEHOLD EXCISE TAX RATE: [Twelve and 84/100 percent (12.84%)] [**SUBJECT TO ADJUSTMENT BASED ON RATE IN EFFECT ON THE EXECUTION DATE**].
- 1.6. ADDITIONAL CHARGES: None.
- 1.7. SECURITY AMOUNT: None.
- 1.8. GUARANTY: None.
- 1.9. PERMITTED USE: Construction and operation of [**Note: to be completed based on use for specific GL Parcel:** residential units and associated retail and/or parking facilities.]
- 1.10. PROPERTY INSURANCE: **Lessee Provided Insurance:**

Builder’s Risk Insurance:

During the Construction Period, Lessee or its general contractor shall purchase Builder’s Risk Insurance, affording “all-risk” coverage on the Project for the Full Replacement Cost. Such Builder’s Risk Insurance shall also (i) provide Flood coverage if the Premises is located within the 100-year flood plain, (ii) provide Contractor’s Pollution Liability or Pollution Legal Liability coverage with limits of One Million and 00/100 Dollars (\$1,000,000.00) per claim and Two Million and 00/100 Dollars (\$2,000,000.00) aggregate, and (iii) name Lessor as an additional insured.

Property/Casualty Insurance:

Following the Construction Period, Lessee shall obtain Property/Casualty Insurance at Full Replacement Cost and the following coverages:

- 1) Business Interruption Insurance – Coverage to include payment of Rent to Lessor for a period of at least six (6) months.
- 2) Flood Insurance - If the Premises is located within the 100-year flood plain during the Term.

**Lessor provided insurance:**

Lessor shall carry the insurance required to be maintained by Lessor pursuant to Section 16.6.

1.11. LIABILITY INSURANCE: Lessee shall obtain Commercial General Liability Insurance including owned and non-owned automobile liability in coverage amounts of One Million and 00/100 Dollars (\$1,000,000.00) per occurrence/Two Million and 00/100 Dollars (\$2,000,000.00) aggregate (“**Minimum Coverage Amount**”); and further subject to adjustment in accordance with the provisions of Section 16.

1.12. WORKERS COMPENSATION: Lessee shall obtain worker’s compensation in accordance with applicable laws and Employers Liability insurance with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00).

1.13. ADDRESSES FOR NOTICE PURPOSES: Notices to Lessor shall be sent to:  
  
City of Vancouver  
PO Box 1995  
Vancouver, WA 98668-1995  
Attn: Patrick Quinton  
Email: patrick.quinton@cityofvancouver.us

With a copy to:  
City of Vancouver  
PO Box 1995 Vancouver, WA 98668-1995  
Attn: City Attorney’s Office  
Email: attorneyemails@cityofvancouver.us

With a copy to:  
Pacifica Law Group LLP  
1191 Second Avenue, Suite 2000  
Seattle, WA 98101  
Attn: Gerry Johnson  
Email: gerry.johnson@pacificalawgroup.com

Notices to Lessee shall be sent to:

\_\_\_\_\_ LLC  
c/o LPC West LP.  
1201 Third Avenue, Floor 22  
Seattle, WA 98101  
Attn: Patrick Gilligan  
Email: pgilligan@lpc.com

With a copy to:  
Lincoln Property Company  
8111 Douglas Avenue, Suite 600  
Dallas, Texas 75225  
Attn: Gregory S. Courtwright  
Email: gcourtwright@lpc.com

With a copy to:  
Radler White Parks & Alexander LLP  
111 SW Columbia Street, Suite 700  
Attn: Dina Alexander  
Email: dalexander@radlerwhite.com



5.2. Rent Abatement Period. During the first two (2) years of the Initial Term, Lessee shall pay a reduced Base Monthly Rent as provided in the schedule set forth in Section 1.4 hereof (such period of reduced rent payment, the “**Rent Abatement Period**”). In the event a Lessor Delay (as defined in Exhibit “C”) occurs during the Rent Abatement Period, the Rent Abatement Period shall be extended one Day for each Day of Lessor Delay.

5.3. Payment of Additional Charges. All Additional Charges, including those described in Section 5.11, shall be paid within thirty (30) Days from the date of billing. All payments shall be payable at Lessor’s office in Vancouver, Washington without counterclaim, setoff, deduction, or defense, except as specifically set forth in this Lease.

5.4. Late Charges. If any payment of Rent or Additional Charges due to Lessor is not received within five (5) Days of the date when due, Lessee shall pay to Lessor a late charge in the amount of five percent (5%) of the payment then due and in arrears and, if such amount is not paid within thirty (30) Days following the date when due, such amount shall also accrue interest on said payment in the amount of twelve percent (12%) per year (the “**Interest Rate**”). Interest shall be calculated on outstanding payments from the date first due until received by Lessor. Notwithstanding the foregoing, Lessor shall waive such late fee and interest the first time in a calendar year that Lessee is late in its payment of Rent or Additional Charges, so long as Lessee pays such past due Rent or Additional Charges within ten (10) Days following written notice that such payment is past due. Lessee shall be responsible for any attorney fees or related charges incurred by Lessor for collection of Rent or Additional Charges. A charge of Seventy-Five and 00/100 Dollars (\$75.00) shall be levied for any check received which is returned for insufficient funds

5.5. Proration. Any Rent payment for any fractional year during the Term hereof shall be prorated based on the number of Days elapsed in such year.

5.6. CPI Increases in Base Monthly Rent. Commencing on the first anniversary of the Term Commencement Date and continuing annually thereafter, including during the Rent Abatement Period, Base Monthly Rent shall be adjusted based on the change in the Consumer Price Index (Seattle-Tacoma-Bellevue, WA) from the immediately preceding twelve (12) months, with a floor of two and one-half percent (2.5%) and a cap of five and one-half percent (5.5%).

5.7. Base Monthly Rent Adjustment. The Base Monthly Rent for each twenty (20) year period commencing on an Adjustment Date shall be equal to the lesser of: (a) the “Fair Market Rent” for the Premises, which shall be determined as set forth in this Section 5.7, or (b) an amount equal to ten percent (10%) more than Base Monthly Rent in effect immediately prior to the Adjustment Date.

5.7.1. “**Fair Market Rent**” shall be the then-current fair market value (“**FMV**”) of the Premises (as determined pursuant to this Section) multiplied by (b) six percent (6%), but in no event shall the determination of the FMV cause the Base Monthly Rent to be an amount less than the Base Monthly Rent in effect immediately prior to the applicable Adjustment Date.

5.7.2. Calculation of FMV. The FMV of the Premises shall be determined by: (a) excluding the value of all then-existing Improvements located on the Premises (including those Improvements constructed by Lessee and Subtenants); (b) assuming that the Premises are unencumbered by this Lease or by any subleases; and (c) assuming that the use of the Premises is for a project (i) in good condition and repair, (ii) in a general condition that is commensurate with buildings in Vancouver, Washington that are similar in type and of a similar age, (iii) and with the same product type, density, net rentable square footage, location, and the same uses as the then-existing Improvements located on the Premises.

5.7.3. Lessor Appraisal. Not more than one hundred eighty (180) days and not less than one hundred fifty (150) days before each Adjustment Date, Lessor shall provide Lessee with an appraisal of the FMV of the Premises that was performed based on appraisal instructions that comply with the requirements of Sections 5.7.1 and 5.7.2, which appraisal sets forth Lessor’s proposal for the FMV of the Premises. Lessor and Lessee shall thereafter negotiate in good faith to determine the FMV of the Premises by mutual agreement. If Lessor and Lessee are unable to determine the FMV of the Premises by mutual agreement within one hundred twenty (120) days before the applicable Adjustment Date will occur, by the date that is ninety (90) days before the applicable Adjustment Date, Lessee shall provide Lessor with an appraisal of the FMV of the Premises that is performed based on appraisal

instructions that comply with the requirements of Sections 5.7.1 and 5.7.2. If Lessor and Lessee are thereafter unable to determine the FMV of the Premises by mutual agreement within sixty (60) days before the Adjustment Date will occur, the FMV of the Premises will be determined as follows:

5.7.4. **Selection of Third Appraiser.** Within ten (10) Business Days after either party delivers notice to the other party requiring a third appraiser, which notice shall be sent to each party's appraiser, the appraisers for each of the Lessor and Lessee shall appoint a third appraiser who shall (a) be competent and impartial, and (b) shall not have worked for either Lessor or Lessee during the immediately previous ten (10) year period to determine the FMV of the Premises. If the two appraisers are unable to timely agree upon the third appraiser, the third appraiser shall be selected by the presiding judge of the Clark County Superior Court.

5.7.5. **Determination of FMV.** The FMV shall be fixed by the three (3) appraisers in accordance with the following procedures and Section 5.7.1 above. Within five (5) Business Days following appointment of the third appraiser, each party-appointed appraiser shall provide a complete copy of its appraisal to the third appraiser. If either of the party-appointed appraisers fails to submit its appraisal within such five (5) Business Day period, the other party-appointed appraiser's FMV determination shall be deemed to be the FMV. If both party-appointed appraisers submit their proposed FMV determinations, the role of the neutral appraiser shall be to select whichever of the two proposed determinations of FMV most closely approximates the neutral appraiser's own determination of FMV. The neutral appraiser shall have no right to propose a middle ground or any modification of either of the two proposed determinations of FMV. The determination of FMV that the neutral appraiser chooses as that most closely approximating the neutral appraiser's determination of the FMV shall constitute the decision of the appraisers and shall be final and binding upon the parties. The appraisers shall have no power to modify the provisions of this Lease.

5.7.6. **Timing.** The neutral appraiser's decision shall be made not later than thirty (30) Days after the submission by the appraisers of their appraisals. The parties have included these time limits in order to expedite the proceeding, but they are not jurisdictional, and the neutral appraiser may for good cause allow reasonable extensions or delays, which shall not affect the validity of the decision. Absent fraud, collusion or willful misconduct by the neutral appraiser, the neutral appraiser's decision shall be final, and judgment may be entered in any court having jurisdiction thereof.

5.7.7. **Appraisers.** All appraisers must be MAI certified real estate appraiser and have at least ten (10) years full-time experience and experience with ground leases and familiarity with the FMV for parcels of land in downtown cores similar to the Premises in Vancouver, Washington.

5.7.8. **Fees.** Each party shall pay the fees and expenses of its respective appraiser and both parties shall share the fees and expenses of the neutral appraiser equally.

5.8. **Taxes.**

5.8.1. In addition to the Leasehold Excise Tax, Lessee shall pay as additional Rent all real and personal property taxes, assessments (including assessments for public improvements), rates, charges, license and permit fees, municipal liens, levies, excises or imposts, sales, use and occupancy taxes, business and occupation taxes, leasehold excise taxes on subleases or otherwise, gross receipts and similar taxes (i.e. taxes based upon gross income that fail to take into account deductions with respect to depreciation, interest, taxes or ordinary and necessary business expenses relating to the Premises), any tax or charge assessed against the fair market value of the Premises, and any taxes levied or assessed in addition to or in lieu of, in whole or in part, such taxes, assessments or other charges of every name, nature and kind whatsoever, including without limitation all governmental charges of every name, nature or kind that may be levied, assessed, charged or imposed or may be or become a lien or charge (i) upon the Premises or any part thereof; (ii) upon the rent or income of Lessee; (iii) upon the use or occupancy of the Premises; or (iv) upon any of the Improvements that are or are hereafter placed, built or newly constructed upon the Premises. Each of the foregoing taxes, assessments and other charges which are the responsibility of Lessee are herein referred to as a "**Tax**", and all of the foregoing taxes, assessments and other charges which are the responsibility of Lessee are herein referred to collectively as "**Taxes**". If at any time during the Term, under any Applicable Laws, any new Tax is levied or assessed against Lessor directly, in substitution in whole or in part for Taxes then in effect, Lessee covenants and agrees to pay and discharge such Tax.

5.8.2. If, under any Applicable Law, any Tax is payable or may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Tax), Lessee may pay the same together with any accrued interest on the unpaid balance of such Tax in installments as the same respectively become due but before any fine, penalty or cost may be added thereto for the nonpayment of any such installment and interest. Any Tax relating to a fiscal period of the taxing authority, a part of which period is included within the Term and a part of which is included in a period of time after the termination of the Term, or prior to the Commencement Date, shall be proportionally adjusted as between Lessor and Lessee as of the termination of the Term of this Lease, or as of the Commencement Date, as applicable, so that Lessor shall pay that proportion of such Tax which relates to that part of such fiscal period after the termination of the Term, or prior to the Commencement Date, as applicable, and Lessee shall pay the remainder thereof. With respect to any Tax for public improvements or benefits which by law is payable, or at the option of the taxpayer may be paid, in installments, Lessor shall pay the installments thereof which may be paid (without penalty, interest or other charge or cost) prior to the Commencement Date or after the end of the Term and Lessee shall pay all installments which are due or payable during the Term.

5.8.3. Nothing in this Lease shall require Lessee to pay franchise, estate, inheritance, succession, transfer or income tax of Lessor except that Lessee shall pay any such tax which is, in whole or in part, in substitution for any other Tax which Lessee is obligated to pay under Section 5.8.1.

5.8.4. Lessor shall send to Lessee, within fifteen (15) days of Lessor's receipt thereof, copies of any notices of Taxes payable by Lessee and received by Lessor from any governmental entity. Nothing contained in this Lease shall obligate Lessee to pay any fines or penalties with respect to Taxes where such fines or penalties are payable due to Lessor's failure to provide timely notice of such Taxes to Lessee or due to the negligence or willful misconduct of Lessor.

5.8.5. Lessee shall promptly notify Lessor of its intent to contest any Tax. Lessee may contest the amount or validity of any Tax by appropriate legal proceedings but no such contest shall in any way relieve, defer, modify or extend Lessee's obligation to pay any and all Taxes at the time and in the manner provided in this Section 5.8, except to the extent (if any) that the pendency of the contest proceedings operate to stay all rights, procedures and proceedings that could in any way adversely affect any right, title or interest of Lessor in or to the Premises and the Improvements thereon.

5.9. Operating Costs. Lessee shall pay or fund when due as Additional Rent all insurance premiums and operating expenses, permit and license fees, utilities and services, construction costs, maintenance, repair, replacement, rebuilding, restoration, management, marketing and leasing services, operations and other costs of any type whatsoever accruing at any time during the Term in connection with the ownership, marketing, leasing, operation, management, maintenance, repair, replacement, restoration, use, occupancy or enjoyment of the Premises (collectively, "Operating Costs").

5.10. Future Assessment District. Lessor shall the right to include the Premises in any new improvement or special assessment district proposed to be created by a governmental authority (a "Proposed District"). If the Proposed District is ultimately formed and affects the Premises, such assessments shall be included in Taxes for all purposes of this Lease, provided Lessee may pay any resulting assessments over the maximum period allowed by law, and shall be liable only for any installments that become due during the Term.

5.11. Net Lease. This is intended to be a net lease, meaning that Lessee shall pay all expenses of every type relating to the Premises after the Term Commencement Date, and all Rent and Additional Charges shall be received by Lessor without setoff, offset, abatement, or deduction of any kind, except as expressly set forth in the Lease. Under no circumstances or conditions, whether now existing or hereafter arising or whether beyond the present contemplation of the parties, shall Lessor be expected or required to make any payment of any kind whatsoever with respect to the Premises or be under any obligation or liability under the Lease, except as expressly set forth in the Lease.

**6. ADDITIONAL CHARGES:** Lessee shall timely make all payments owing by Lessee under this Lease other than Rent ("Additional Charges"), including, but not limited to, any charges, costs, and expenses that Lessor pays or agrees to pay under this Lease, together with all interest and other charges that may accrue thereon, if and to the extent same are Lessee's responsibility under this Lease and Lessee fails to timely pay same, and all other

damages, costs, expenses, and sums that Lessor may suffer or incur, or that may become due, by reason of any Default.

7. [RESERVED]

8. [RESERVED]

## 9. POSSESSION

9.1. *Delivery.* Lessor shall be deemed to have delivered the Premises to Lessee on the Term Commencement Date, and as of the Term Commencement Date, Lessee shall have all rights to possess and occupy the Premises.

9.2. *Waiver of Warranties; Condition of the Premises.* Lessee acknowledges that, except for the explicit warranties and representations in this Lease or in the DDA, Lessor has not made any representations or warranties of any kind concerning the Premises or the condition of the Premises. Except for the explicit representations and warranties in this Lease or in the DDA, Lessor specifically disclaims all warranties or representations of any kind or character, express, implied, statutory or otherwise (including warranties of merchantability and warranties of fitness for use or acceptability for the purpose intended by Lessee) with respect to the Premises or the condition of the Premises. Except as otherwise provided in this Lease (including, without limitation, Lessor's indemnification, obligations and responsibilities with respect to Hazardous Substances set forth in Section 12 hereof), Lessor leases the Premises to Lessee "AS IS" and "WHERE IS" and "WITH ALL FAULTS." Lessee acknowledges that, except as otherwise provided in this Lease or in the DDA: (i) Lessor has made no warranty, representation or guarantee, expressed, implied or statutory, written or oral, pertaining to the Premises' compliance with any laws, ordinances, rules or regulations, federal, state or local; and (ii) Lessor has made no warranty, representation or guarantee, expressed, implied or statutory, written or oral, as to any government limitation or restriction, or absence thereof, pertaining to the Premises, or as to the presence or absence of any latent defect, subsurface soil condition, environmental condition, hazardous substance, toxic waste or any other matter pertaining to the physical condition (title, mapping, construction, or otherwise) of the Premises, including, but not limited to, the condition of the soil, subsoil, groundwater or surface water, and including the structural condition of improvements in, on or to the Premises, or as to the presence, use, discharge, spill, storage, generation, migration, handling, recycling, processing, treatment, disposal, release or threat of release of any hazardous materials at the Premises or any other area allegedly or actually affected by conditions existing at any time on, under, in, or around the Premises. LESSEE ACKNOWLEDGES THAT THE DISCLAIMERS SET FORTH IN THIS SECTION ARE AN INTEGRAL PART OF THIS LEASE AND THAT LESSOR WOULD NOT HAVE AGREED TO LEASE THE PROPERTY ON THE TERMS PROVIDED IN THIS LEASE WITHOUT THE DISCLAIMERS SET FORTH IN THIS SECTION.

## 10. USE OF PREMISES:

10.1. Lessee shall occupy and use the Premises for the Permitted Use set forth in Section 1.9 and shall not use the Premises for any other purpose without the prior written consent of Lessor. Lessee shall not use or authorize the use of any portion of the Premises for (i) for the storage, distribution or handling of chlorinated solvents, or (ii) for the storage, distribution or handling of any other Hazardous Substances, except Hazardous Substances (A) typically used in the operation of the Permitted Use in compliance with Environmental Laws, or (B) identified in the completed Tenant Environmental Questionnaire provided to Lessor from time to time in the form attached hereto as Exhibit "D" (collectively, the "**Prohibited Uses**").

10.2. Without limiting the foregoing or any other provision of this Lease, Lessee shall not do any act, or allow any subtenant or other user of the Premises to do any act, and in no event shall the Premises be used for (a) any purpose that in any manner causes, creates, or results in a nuisance or waste, other than the construction work expressly contemplated in this Lease or the DDA, or (b) any purpose that would or could invalidate or be in conflict with the provisions of any fire or other property insurance policy covering the Premises.

10.3. Lessee shall include in its subleases language requiring subtenants to comply with all Applicable Laws.

**11. GENERAL COMPLIANCE WITH ALL LAWS:** Lessee agrees to comply with all federal, state and municipal laws, ordinances and regulations applicable to Lessee and the Premises, and Lessor shall have the right to review all related documents in the possession or control of or reasonably available to Lessee. Lessor agrees to comply with all federal, state, and municipal laws, ordinances and regulations applicable to Lessor, and Lessee shall have the right to review all related documents in the possession or control of or reasonably available to Lessor. If Lessor requires copies of any such documents, Lessee will be reimbursed for any associated reasonable costs. Each party's right to review the other party's documents does not imply acceptance of any responsibility for accuracy, completeness, or legal compliance. Lessee shall pay any fees for any federal, state or municipal inspections and/or certificates required for use and occupancy of the Premises. Further, Lessee shall pay all licenses, fees, and taxes covering the business conducted on the Premises, together with all taxes and assessments on the property of Lessee on the Premises.

**12. PRESENCE AND USE OF HAZARDOUS SUBSTANCES:**

12.1. Use, Storage, and Disposal. Notwithstanding any other provision of this Lease, Lessee shall not use, transport, store, treat, generate, sell or dispose of any Hazardous Substances brought to the Premises during the Term on or in any manner that affects the Premises or surrounding properties except in accordance with Environmental Laws. "Affects the Premises or surrounding properties" shall include, but not be limited to, allowing any Hazardous Substances brought to the Premises during the Term to migrate off the Premises, or the Release of any Hazardous Substances brought to the Premises during the Term into adjacent surface waters, soils, sediments, ground waters or air, except in accordance with Environmental Laws.

12.2. Presence of Hazardous Substances. Lessor has notified Lessee that Hazardous Substances, specifically contaminated soils may be present in and around the Premises from operations and activities occurring prior to the date the Lessor tenders possession of the Premises to Lessee ("**Contaminated Media**") and may be encountered during ground disturbing activities, such as excavation, construction, repair and maintenance at the Premises. Investigations have been conducted of the Hazardous Substances present on the Premises, and the results of such investigations are summarized, among other documents, in the [REDACTED], 202 [Contaminated Media Management Plan, prepared for the Lessor by Maul Foster & Alongi] (the "**CMMP**"). The CMMP affects the Premises together with certain adjacent real property ("**Adjacent Real Property**"). The summarized investigations are referred to collectively as the "**Baseline Assessment**". Lessor has provided Lessee with a complete copy of the CMMP (included as Exhibit "E"). The parties acknowledge and agree that the Baseline Assessment establishes a presumption of the Contaminated Media condition of the Premises existing on and prior to the Effective Date. Prior to commencing its construction activities, Lessee, at Lessee's sole cost, may conduct (but shall not be required to conduct) a further environmental review (including, without limitation, a Phase II Environmental Report) by an independent reputable professional environmental consultant, which review may include boring and soil and groundwater samples, provided, that, Lessee repairs any damage to the Premises caused thereby. Lessor hereby consents to such further environmental review. As long as Lessee provides Lessor with a complete copy of the report detailing such further environmental review prior to commencing its construction activities, such further environmental review shall be included in combination with the Baseline Assessment ("**Supplemental Baseline Assessment**") as establishing the presumption of the Contaminated Media condition of the Premises existing as of the date of such report.

12.3. Category 1, 2, 3 and 4 Soils; Incremental Costs. The CMMP will provide that (a) Category 1 soils will be disposed of by Lessee at its cost and expense, and (b) Category 2 and 3 soils will be placed by Lessee, at its cost and expense, on a site designated by Lessor in writing on or before the Effective Date, which site shall be within a ten (10) mile radius of the Premises. Lessor and Lessee will share incremental costs associated with the removal or remediation of Category 4 soils from the Premises with Lessor paying ninety percent (90%) and Lessee paying ten percent (10%) of all such incremental costs; provided that Lessor's liability for such incremental costs associated with the Premises and the other real property that Lessee or an entity affiliated with LPC West, Inc. leases or purchases from Lessor pursuant to the DDA shall not exceed two million four hundred thousand dollars (\$2,400,000.00) in the aggregate. At such time as Lessor has expended \$2,400,000 in the aggregate whether for the Premises and/or other real property that Lessee or an entity affiliated with LPC West, Inc. leases or purchases from Lessor pursuant to the DDA, Lessor shall have no further obligation to share in the incremental costs associated with the removal or remediation of Category 4 soils as provided above. On or before the Effective Date, Lessor, at no cost to Lessee, shall have obtained any and all permits and other approvals necessary for the site to which Lessee will deliver the Category

2 and 3 soils to, and for Lessor to receive the Category 2 and 3 soils at, the designated site, including the receipt, offloading, stacking, storage, distribution, management and maintenance of the soils at, on and about the designated site. Lessee's compliance with the CMMP and delivery of the Category 2 and 3 soils to the designated site shall immediately and automatically result in a transfer of ownership and responsibility for such soils to Lessor, and Lessee shall have no further responsibility or liability for such soils whatsoever. If Lessor believes that Lessee has failed to comply with the CMMP for purposes of this Section 11, then within thirty (30) days of Lessee's delivery of the Category 2 and 3 soils to the designated site, Lessor shall so notify Lessee in a writing that sets forth in detail the alleged noncompliance. Failure of Lessor to timely provide such notice shall be deemed Lessor's waiver of any and all allegations that Lessee failed to comply with the CMMP with respect to the Category 2 and 3 soils delivered to the designated site.

12.4. *Reimbursement of Incremental Costs.* Lessor will reimburse Lessee for its share of incremental costs within thirty (30) days of receipt from Lessee of documentation reasonably required by Lessor of the incremental costs actually incurred in accordance with the CMMP. Lessee shall not submit for reimbursement of incremental costs more frequently than monthly.

12.5. *Definitions.* As used in this Section 12, "incremental costs" means all costs that would not otherwise be incurred but for the existence of Category 4 soils, in, on, under and about the Premises, including: (a) soil off-haul and disposal; (b) environmental testing of materials (including soil and groundwater) removed from the Premises if and as required by Environmental Law or a disposal facility; (c) environmentally required materials and equipment such as demarcation fabric; (d) dust and track-out control; (e) management of soil piles; and (f) any specialty clothing needed for workers performing soil removal or other remediation work. In other words, "incremental costs" are costs and expenses in excess of costs that would be incurred by Lessee as a result of the existence of Category 1 soils in, on, under and about the Premises, including in each cost category described in subsections (a) through (f) of this Section 12.5. As used in this Section 12.5, "Category 1", "Category 2", "Category 3" and "Category 4" soils shall have the meaning given to such terms by the Washington State Department of Ecology

12.6. *Amendments to CMMP.* No amendment or modification to the CMMP shall be binding on Lessee unless approved by Lessee in writing.

12.7. *Compliance with CMMP.* Lessor shall comply with the CMMP applicable to its activities affecting the Premises. Without limiting the generality of the foregoing, Lessor shall respond to Lessee within ten (10) Business Days following receipt of any written notice required to be provided by the CMMP, and thereafter continue to diligently pursue any further actions required of Lessor. If Lessor requires more than ten (10) Business Days to carry out actions required of it under the CMMP in response to a written notice by Lessee, Lessor shall notify Lessee of its plan and a reasonable timeline for proceeding within ten (10) Business Days following receipt of Lessee's notice, and Lessor shall promptly commence and diligently pursue such plan in accordance with such timeline. Lessor shall keep Lessee informed of its progress in pursuit of such plan. If there is any inconsistency between the cost allocation between Lessor and Lessee in this Section 12 and in the CMMP, the CMMP shall prevail.

12.8. *Compliance with Environmental Laws.* Lessor shall comply with all Environmental Laws in conducting Lessor's activities on or affecting the Premises. Lessee, at its sole cost and expense, shall comply with (i) all Environmental Laws applicable to Lessee's construction activities and operations, including, but not limited to, all permits applicable to the Premises and issued to Lessee, and (ii) the terms of any applicable permit covering stormwater or other discharges from the Premises. If and to the extent certain evidence and documentation of completion of remedial actions and compliance with Environmental Laws (such as a "No Further Action" certification) is requested by Lessee's lenders, investors, prospective tenants or subtenants, or prospective assignees of this Lease, Lessee shall have the right but not the duty to obtain such documentation at its sole cost, limited in geographic scope to the Premises. The Parties further agree that Lessee shall consult with Lessor prior to initiating contact with the Washington Department of Ecology or other regulatory agency to initiate the process for obtaining such documentation. Lessee shall not deviate from the agreed approach without further consultation with Lessor. Lessee shall provide to Lessor copies of all communications with the Washington Department of Ecology or other regulatory agency.

12.9. *Notifications.* Upon Lessee's discovery of the Release of Hazardous Substances not previously identified in the Baseline Assessment and any Supplemental Baseline Assessment that is on, beneath, or that may

affect the Premises or the surrounding properties, Lessee shall promptly notify Lessor and provide Lessor with a copy of any notifications given to any governmental entity, individual, or other entity relating thereto. Lessee shall promptly provide Lessor with copies of any inspection report, complaint, order, fine, request, notice or other correspondence from any person or entity regarding (1) the presence or Release of Hazardous Substances that is on, beneath, or that may affect the Premises or the surrounding properties; or (2) Lessee's compliance with Environmental Laws.

12.10. Environmental Assessment. Lessee shall, upon written request from Lessor made at any time during the Term of this Lease or within sixty (60) Days thereafter, based on a reasonable belief there has been a Release or material exacerbation of Hazardous Substances caused by Lessee or by Lessee's employees, sublessees, contractors or agents, excluding the Release or exacerbation of Hazardous Substances occurring as a result of activities conducted in accordance with Environmental Law, this Lease or the CMMP, or violation by Lessee of Environmental Laws, provide Lessor with an environmental assessment prepared by a qualified professional mutually agreed upon by Lessor and Lessee, which assent shall not be unreasonably withheld, conditioned or delayed. If Lessee refuses to assent within seventy-two (72) hours of an emergency or within ten (10) Days of a non-emergency, Lessor shall unilaterally select the qualified professional to perform said assessment. The environmental assessment shall, at a minimum, (1) certify that a diligent investigation of the Premises has been conducted, including a specific description of the work performed, and (2) either (a) certify that diligent investigation of the Premises has revealed no evidence of a such a Release of Hazardous Substances or violation of Environmental Laws, or (b) if a Release or violation of Environmental Laws is detected, identify and describe: (i) the types and levels of Hazardous Substances detected; (ii) the physical boundaries of the Release, including property other than the Premises; (iii) the actual and potential risks to the environment from such Release or violation; and (iv) the procedures and actions necessary to remedy the Release or violation in compliance with Environmental Laws. If such environmental assessment discloses there has been a Release or material exacerbation of Hazardous Substances caused by Lessee or by Lessee's employees, sublessees, contractors, or agents, or a violation of Environmental Laws caused by Lessee or by Lessee's employees, sublessees, contractors, or agents, or a Default by Lessee of its obligations under this Lease, Lessee shall pay the expense of obtaining the environmental assessment and of performing all remediation. If such environmental assessment discloses a material exacerbation or Release of Hazardous Substances by Lessor or by Lessor's employees, sublessees, contractors, or agents, or a violation by Lessor or by Lessor's employees, sublessees, contractors, or agents of Environmental Laws, or a Default by Lessor of its obligations under this Lease, Lessor shall pay the expense of obtaining the environmental assessment. If such environmental assessment discloses that there has been no material exacerbation or Release of Hazardous Substances or a violation of Environmental Laws, or a Default by Lessor of its obligations under this Lease, Lessor shall pay the expense of obtaining the environmental assessment.

12.11. Hold Harmless and Indemnity. Lessee shall defend (with attorneys approved in advance and in writing by Lessor), indemnify and hold Lessor and its agents harmless from any third-party loss, claim, fine or penalty arising from the Release or exacerbation of Hazardous Substances caused by Lessee or by Lessee's employees, sublessees, contractors, invitees (but only when a loss, claim, fine or penalty is related to such invitees' presence on the Premises) or agents or any violation of Environmental Laws affecting the Premises or the surrounding properties to the extent caused by Lessee or by Lessee's employees, sublessees, contractors, invitees (but only when a violation of Environmental Laws is related to such invitees' presence on the Premises) or agents. Notwithstanding the foregoing, Lessee's obligations to defend, indemnify, and hold harmless Lessor and its agents shall not apply to the extent (a) the Release or exacerbation of Hazardous Substances or the violation of Environmental Laws is caused by Lessor, its agents, contractors or employees, or (b) occurring as a result of activities conducted in accordance with Environmental Law, this Lease or the CMMP, including any subsequent revision and amendments made thereto in accordance with this Lease. Such obligation shall include, but shall not be limited to, environmental response and remedial costs, other cleanup costs, environmental consultants' fees, attorneys' fees, fines and penalties, laboratory testing fees, claims by third parties and governmental authorities for death, personal injuries, property damage, business disruption, lost profits, natural resource damages and any other costs and Lessor's expenses as provided in this Lease. Lessee's obligations pursuant to this subsection shall survive expiration or other termination of this Lease.

12.12. Assignments and Subleases. Lessor may withhold its consent to any assignment, sublease, or other transfer (where Lessor's consent is required under this Lease) if the proposed transferee's use of the Premises may involve the use, transportation, storage, treatment, generation, sale or disposal of Hazardous Substances not in compliance with Environmental Laws, including the proposed transferee's historical use, transportation, storage, treatment, generation, sale or disposal of Hazardous Substances not in compliance with Environmental Laws.

12.13. *Lessor's Remedies.* Subject to the Lessor's obligations under this Lease, without prejudice to any other right or remedy available to Lessor at law, in equity, or under this Lease, Lessor, in the event of a Release of Hazardous Substances by Lessee or by Lessee's employees, sublessees, contractors or agents (excluding the Release of Hazardous Substances occurring as a result of activities conducted in accordance with Environmental Laws, this Lease or the CMMP), a violation by Lessee of Environmental Laws, or a Default by Lessee of the provisions of this Section 12, after notice and opportunity to cure as provided in Section 24, shall be entitled to the following rights and remedies, at Lessor's option:

12.13.1. To recover any and all damages associated with such Release, violation or Default, including, but not limited to, cleanup costs and charges, civil and criminal penalties and fees, loss of business and sales by Lessor, and any and all damages and claims asserted by other parties and Lessor's attorneys' fees and costs.

12.13.2. To be indemnified as provided in subsection 12.11.

12.13.3. Lessor may enter upon the Premises and cure any such violation and either (i) charge to Lessee as Additional Charges an amount sufficient to recover the cost of such cure, together with interest thereon at the Interest Rate, or (ii) increase Rent by such amount as will permit Lessor to fully recover the cost of such cure, together with interest thereon at the Interest Rate, during such portion of the unexpired Term of this Lease as Lessor may deem proper, provided Lessor provides documentation of the costs incurred to cure such violation or Default. Such election by Lessor shall be without prejudice to any other right or remedy provided to Lessor at law, in equity, or in this Lease, excluding termination of the Lease.

12.14. *Vacation of the Premises.* Prior to vacation of the Premises upon expiration or earlier termination of this Lease, in addition to all other requirements under this Lease, Lessee will have a Phase I environmental site assessment (the "**Phase I**"), and, if recommended in the Phase I in response to Recognized Environmental Conditions (as that term is defined in the then-current ASTM 1527 standard) ("**RECs**") except for those RECs arising from or related to environmental conditions identified in the Baseline Assessment, including investigations referenced therein, or Supplemental Baseline Assessment, or RECs arising from work done in compliance with the CMMP by Lessee, a Phase II environmental site assessment (the "**Phase II**"), conducted on the Premises by an independent, reputable professional environmental consultant mutually agreed upon by Lessor and Lessee to assess the presence of Hazardous Substances on the Premises as of the termination of this Lease (the "**Exit Assessment**") and to compare the condition of the Premises at that time with the Baseline Assessment and the Supplemental Baseline Assessment established in accordance with Section 12.2. The scope of work for the Exit Assessment shall be reviewed and approved by Lessor prior to its initiation, and it shall be intended to address whether Lessee or Lessee's employees, sublessees, contractors, or agents have caused Hazardous Substances to have been Released on the Premises in violation of Environmental Laws at the time of such Release, and if so, Lessee shall be obligated to remediate any such Release as required to return the Premises to the condition established in accordance with Section 12.2.

12.15. *Cooperation.* In the event of a Release or exacerbation of Hazardous Substances caused by acts or omissions of Lessee or by Lessee's employees, sublessees, contractors or agents, excluding the Release or exacerbation of Hazardous Substances occurring as a result of activities conducted in accordance with Environmental Law, this Lease or the CMMP, Lessee shall cooperate with Lessor in any investigation or remediation of the Premises that are required by the Washington Department of Ecology or other regulatory agency. Lessee agrees it shall not demand or, unless required by the Washington Department of Ecology or other regulatory agency, agree to a remedy that will interfere with Lessor's use of the Premises, and Lessor agrees it shall not demand or, unless required by the Washington Department of Ecology or other regulatory agency, agree to a remedy that will interfere with the Lessee's Permitted Use of the Premises. Lessor reserves the right to take over any investigation and remediation of the Premises required by the Washington Department of Ecology or other regulatory agency, after notice and opportunity to cure as provided in Section 24 except in the event of an emergency, if it determines, in its reasonable discretion, that Lessee is not complying with its obligations under the Lease, applicable Environmental Laws, and the applicable cleanup plan. Any undertaking by Lessor to investigate or remediate the Premises shall not relieve Lessee of its obligations under this Lease or applicable Environmental Laws. In the event of a Release or exacerbation of Hazardous Substances not caused by Lessee or by Lessee's employees, sublessees, contractors or agents that affects the Premises, Lessee shall provide access to the Premises for investigation and remediation subject to the access requirements provided in Section 13.1.

12.16. *Cultural and Archaeological Resources.* Lessor has notified Lessee that cultural and archaeological resources may be present at the Premises and may be encountered during ground disturbing activities. If Lessee encounters any such resources on the Premises, Lessee shall report the discovery to Lessor and shall be responsible for submittals required for obtaining any cultural and archaeological approvals necessary for Lessee's activities on the Premises as required by local, state, and federal laws, ordinances, and regulations. To ensure that ground disturbing activities are properly managed for cultural and archaeological resources, Lessee shall ensure that such activities comply with applicable local, state and federal laws, ordinances, and regulations. Lessee shall be responsible to implement, and Lessor shall bear the cost of, the monitoring plan for Lessee's activities, including construction, as well as all costs and expenses associated with the creation of submittals required for obtaining approvals necessary for Lessee's activities on the Premises and Lessee's handling, removal, and otherwise dealing with such resources in compliance with all applicable laws (collectively, "**Archaeological Compliance Costs**"). Lessor shall not otherwise be responsible for any of Lessee's development, finance, or Project costs arising from the discovery or presence of cultural and archaeological resources, including, but not limited to, Project delays or design/redesign, but the Project Deadline shall be delayed on a day-for-day basis, commencing on the date of Lessee's discovery of such resources and continuing as reasonably necessary for Lessee to handle, remove, and otherwise deal with such resources in compliance with all applicable laws. Such period of delay shall be determined by Lessee in its reasonable discretion, provided that it is working diligently and in good faith to resolve all issues related to such resources and to continue with construction and development of the Project. Lessor and Lessee shall work cooperatively with the archaeologists, appropriate local, state and federal agencies and applicable tribes to comply with all lawful obligations associated with the discovery and protection of such materials. Further, the parties shall work cooperatively so that Lessee may resume the construction or other ground disturbing work as expeditiously as possible following the discovery. Within thirty (30) days of receipt from Lessee of invoices or other reasonable evidence of the Archaeological Compliance Costs actually incurred by Lessee, Lessor shall fully reimburse Lessee for such Archaeological Compliance Costs.

### 13. RESERVATIONS BY LESSOR:

13.1. *Access Rights.* Lessor reserves the right to: (a) enter upon and inspect the Premises Common Areas (as defined in Exhibit "C") at any and all reasonable times during the Term of this Lease; (b) to enter upon the Premises Common Areas to post and keep posted thereon notices of non-responsibility for any construction, alteration or repair that Lessor is obligated or entitled to undertake pursuant to the terms of this Lease; and (c) during the last six (6) months of the Term (or any applicable Extension Term) to show the Premises Common Areas to prospective tenants or purchasers. In addition, Lessor shall be entitled to enter upon and inspect the interior spaces within the Improvements on the Premises, subject to compliance with the following term and conditions:

13.1.1. Lessor shall request access to a space within the Improvements which is occupied by a Subtenant (as defined in Section 20.7) only if Lessor has a reasonable need to access such space (such as to conduct a required environmental audit), if Lessor has a reasonable basis to believe a violation of this Lease or applicable law is occurring within such Subtenant's Sublease Space (as defined in Section 20.7), or to conduct a joint walk-through of the Premises in accordance with Section 30 (Surrender of Premises).

13.1.2. Except in the event of an emergency, Lessor shall provide Lessee, and if applicable, the affected Subtenant, with at least forty-eight (48) hours prior written notice of Lessor's need to access the interior spaces of the Improvements and the reason therefor. An emergency shall include, but shall not be limited to, the existence of a condition that poses a threat to human health or the environment.

13.1.3. Lessor shall comply with the terms and conditions of Subleases in place governing access to such Sublease Spaces, including, without limitation, compliance with such Subtenants' security procedures and providing additional advance notice of such access to such Subtenants, if required. Representatives of Lessee and Subtenant shall be entitled to accompany Lessor during any access by Lessor to interior spaces of the Improvements.

13.1.4. Any access to the Premises or spaces within the Improvements by Lessor shall be conducted in such a manner as to avoid (or if not possible, minimize) interference with Lessee's operations or the operations of Lessee's Subtenants.

13.1.5. Lessor, at Lessor's sole cost and expense, shall repair any damage done to the Premises to restore the Premises to the condition that existed immediately prior to the exercise by Lessor of its rights under this Section 12.1.

The right of inspection shall not impose any obligation on Lessor to do so, nor shall Lessor incur any liability for not making inspections.

13.2. Waiver of Claims. Except to the extent of Lessor's negligence, willful misconduct, breach of any term or condition of this Section 13, or breach of any covenant of quiet enjoyment with respect to any residential lease in the exercise of its rights under this Section 13, Lessee hereby waives and releases any claims against Lessor or any Lessor Parties for damages for any injury or inconvenience to or interference with Lessee's business at the Premises, any loss of occupancy or quiet enjoyment or the Premises or any other loss, damage, liability or cost occasioned by Lessor's exercise of the rights reserved to Lessor under, or granted to Lessor pursuant to this Section 13.

#### 14. MAINTENANCE AND REPAIR:

14.1. Lessee Maintenance Obligations. Lessee, at its sole cost and expense, shall take or cause to be taken good care of the Premises and the Improvements during the Term of this Lease, it being understood that Lessor shall not be required to make any repairs to the Premises or the Improvements during the Term hereof. Lessee's responsibility shall include maintenance and repair of the electrical system, lighting, plumbing, drain pipes to sewers, parking areas and trade fixtures and appurtenances located on the Premises. Subject to Lessee's rights under Section 18 (Damage and Destruction), Lessee's repairs shall include all repairs and replacements thereto, interior and exterior, structural and non-structural, , and Lessee shall maintain and keep the Premises in good order and repair. Without limiting the generality of the foregoing sentences, Lessee agrees to maintain, repair and keep in good condition the Improvements, all sidewalks, vaults, sidewalk hoists and curbs on the Premises and all water, sewer, and gas connections, pipes, and mains which service the Premises. Lessee's obligation to maintain all water, sewer, and gas connections, pipes, and mains shall apply to, but not be limited to, water lines and faucets within the Premises, sanitary sewer and drain lines on the Premises extending to the sewer/septic connections, and all plumbing fixtures. Throughout the Term, Lessee shall cause its property manager to keep records of all repairs, maintenance, warranties and certifications performed or obtained by Lessee with respect to the building systems and structural components of the Improvements which are customarily maintained by operators of projects similar in size, type, quality, use and location as the Project, consistent with good management practices (collectively, the "**Maintenance Records**"). At the end or other termination of this Lease, Lessee shall deliver to Lessor the Premises and all Improvements thereon in accordance with Section 29 (Surrender of Premises), along with copies of Maintenance Records for a period of no less than five (5) years prior to the applicable expiration or earlier termination date.

14.2. Sidewalks. Lessee shall keep the sidewalks abutting the Premises and all entrances free and clear of snow, ice, debris and obstructions of every kind, at its sole cost and expense, provided, that, the foregoing shall not prevent Lessee from maintaining sidewalk tables, chairs, benches, planter boxes, signage, or similar items thereon, so long as such items are permitted under applicable laws, codes, permits and approvals and do not block pedestrian pathways.

14.3. Lessor Right to Perform Lessee Maintenance. If Lessor is required to make any repairs to the Premises by reason of Lessee's negligent acts or omission to act or failure to perform its obligations under this Lease, after notice and opportunity to cure as provided in Section 24.2, then Lessor, upon completing such repairs, may charge Lessee for the costs thereof as an Additional Charge next owing from Lessee, which cost shall become due within thirty (30) Days of Lessee's receipt of invoices or other reasonably evidence of the costs actually incurred by Lessor to complete such repairs.

14.4. Casualty. In the event of damage or destruction to the Premises caused by a fire or other casualty, the provisions of this Section 14 shall not apply and the obligations of the parties shall be controlled by Section 18 (Damage or Destruction) of this Lease.

## 15. PROJECT CONSTRUCTION AND IMPROVEMENTS:

15.1. *Lessor Cooperation.* The parties acknowledge and agree that Lessee shall be constructing the Project in accordance with Section 1.9 and undertaking other Permitted Uses as defined therein.

### 15.2. *Construction of Project.*

15.2.1. The Initial Improvements are subject to, and shall be constructed in conformance with the design guidelines attached to the Lease as Exhibit F and in substantial compliance with, the plans and specifications that are the basis for the issuance of Permits for the Project, and any future exterior Improvements that require Lessor's consent hereunder are subject to, and shall be constructed in substantial compliance with, the plans, specifications and elevations approved in writing by Lessor as set forth in Section 15.5 and shall be completed with all reasonable dispatch. Lessee warrants that any construction, remodeling, replacement, alteration, addition, erection or installation in, on or to the Premises, whether done with or without Lessor's consent, shall be done in a good and workmanlike manner with new materials; will be performed in compliance with local, state and federal building, fire and other codes and construction guidelines, including, but not limited to, the American's with Disabilities Act, and all other applicable covenants, terms and conditions hereof. Lessee shall provide to Lessor copies of certificates and permits issued by local, state and federal building, fire and other code and construction agencies.

15.2.2. Lessee shall commence construction of the Improvements no later than ninety (90) days after the Effective Date. As used in this Lease, "**commence construction**" or "**commencement of construction**" and related phrases mean the date upon which the general contractor for the Project has commenced mobilization at the Premises. Subject to delay by Force Majeure, Lessee's failure to timely commence construction of the Improvements shall constitute a Default. Lessee shall use commercially reasonable efforts to prosecute to completion the construction of Improvements by the Project Deadline, with "**completion of construction**" and related phrases meaning the date the City of Vancouver issues a Certificate of Occupancy for the relevant Improvements. Subject to Force Majeure, Lessee failure to timely complete the Improvements shall constitute a Default.

15.2.3. From commencement of construction of the Improvements until such time as Lessee has achieved completion of construction of the Improvements, Lessee shall provide Lessor with monthly progress reports regarding the status of the construction.

15.2.4. Lessee shall permit Lessor, through its officers, agents, or employees, to enter onto the Premises at reasonable times during business hours after reasonable advance written notice and acceptance by Lessee (a) to inspect the construction work to determine that the same is in conformity with the requirements of this Lease and the DDA, and (b) following completion of construction, to inspect the ongoing operation and management of the Improvements to determine that the same is in conformance with the requirements of this Lease. Notwithstanding the foregoing, Lessor shall not interfere with Lessee's use of the Premises or operations of the Improvements or interfere with any Subtenant's occupancy of the Premises or Improvements. The scheduling of all Lessor inspections shall take into account the timing and availability of a representative of Lessee to attend such inspections and access to Subtenants' premises pursuant to subtenants' rights under their applicable subleases or otherwise. Lessor's inspections shall not involve any activities that penetrate into the Improvements or any portion thereof. Lessor shall immediately repair any damage to the Premises or Improvements caused by Lessor's entry onto and inspections of the Premises or Improvements. Lessor hereby agrees to indemnify, defend, and hold Lessee, its managers, members, partners, officers, directors, employees, and agents free and harmless from and against any and all costs, losses, liabilities, damages and expenses, of any kind or nature whatsoever (including reasonable attorneys' fees and costs actually incurred), arising out of damage to persons or property caused by, arising out of, or resulting from the entry and/or the conduct of inspections at the Premises or Improvements by Lessor, its officers, contractors, agents or employees. The foregoing obligations and indemnification shall survive the expiration or earlier termination of this Agreement.

15.2.5. Lessee acknowledges that Lessor is under no obligation to supervise, inspect, or inform Lessee of the progress of construction or operations, and Lessee shall not rely upon Lessor therefor. Any inspection by Lessor during the construction is entirely for its purposes in determining whether Lessee is in compliance with this Lease and the DDA and is not for the purpose of determining or informing Lessee of the quality or suitability of construction. Lessee shall rely entirely upon its own supervision and inspection (or that provided by third parties) in

determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers.

15.3. *Permits.* It is further understood and agreed that construction of the Project will not occur until after permits for such construction have been issued. Notwithstanding the foregoing, it is acknowledged that issuance of all Permits necessary for construction of the entire Project shall not be required to commence construction, so long as the necessary permits have been issued for the work to be performed (such as grading permits or demolition permits) and such work is allowed to be performed under all laws.

Lessee shall be solely responsible for obtaining, at its sole cost and expense, the approval of the City (and any other governmental agencies with jurisdiction over the Premises) for any building, electrical and plumbing permits, environmental impact analysis and mitigations imposed thereby, or other governmental action necessary to permit the development, construction and operation of the Improvements and any alterations thereto in accordance with this Lease. Other than for the initial Improvements to be constructed on the Premises, Lessee shall (a) apply for and prosecute any required governmental review processes for any discretionary approvals, comprehensive plan amendment, rezoning, variance or use permit only with the written approval of Lessor, such approval not to be unreasonably withheld, delayed or conditioned, and (b) not submit any environmental impact statement, addendum, checklist or other State Environmental Policy Act document to any public agency without Lessor's prior written approval, which Lessor may withhold in its sole discretion. Lessee shall be solely responsible for compliance with all permits and conditions related to the Improvements.

15.4. *Construction Coordination.*

15.4.1. *Access; Interference.* Lessee shall comply in all material respects with all applicable City of Vancouver permitting and construction requirements related to street closures, construction disturbances, and the maintenance of access to neighboring facilities and businesses, including City Hall, the Vancouver Convention Center, and Esther Short Park.

15.4.2. *Construction Traffic.* The parties shall agree to a route for the construction truck traffic to utilize during construction, including keeping trucks off 6<sup>th</sup> Street through the eastern section of downtown Vancouver to the extent that reasonable ingress to and egress from the construction site remains without the use of 6<sup>th</sup> Street.

15.4.3. *Construction Worker Parking.* Lessee shall provide a construction worker parking plan to Lessor for review and approval (such approval not to be unreasonably withheld, conditioned, or delayed) prior to commencement of construction. If Lessee's parking plan provides adequate parking for construction workers so that workers are not utilizing on-street parking close to the construction site, then Lessor shall approve such parking plan. Lessor shall assist Lessee with efforts to locate overflow parking options during construction.

15.4.4. **If applicable:** *Construction Adjacent to BNSF Railway Berm.* Lessee is responsible for obtaining any needed consents, approvals, or permissions from BNSF Railway to utilize areas adjacent to the railroad berm. A copy of such BNSF Railway consents, approvals, or permissions, if any, shall be provided in writing to Lessor prior to commencement of construction of the Project.

15.5. *Lessor Review of Plans.* Lessee, prior to constructing future exterior Improvements upon the Premises, shall submit to Lessor the plans and specifications for such Improvements and obtain Lessor's prior written approval, provided, that, Lessor's approval shall be limited solely to Lessor's determination that Lessee's proposed Improvements comply with the Design Guidelines (or can be made to comply through an amendment to the Design Guidelines, such amendment being first subject to Lessor's approval, which shall not be unreasonably withheld) and shall not be unreasonably withheld, delayed or conditioned. Once a set of plans has been so approved, deemed approved or resolved, Lessee shall have the right to continue the design and construction of such Improvements in substantial conformance therewith. Lessee shall submit to Lessor the plans and specifications for such Improvements and all required local, state and federal permits or authorizations. Notwithstanding the foregoing or anything to the contrary herein, Lessor's approval or consent shall not be required for Improvements that are not visible from the exterior of the Improvements.

15.6. [Reserved.]

15.7. Signage Requirements. Any sign, decoration, awning or canopy, or advertising matter to be installed by Lessee shall comply with all regulatory requirements of the State of Washington, Clark County, Lessor (in its regulatory capacity), and or any other governmental agency with jurisdiction over the Project.)

15.8. Ownership of Improvements. All Improvements made by Lessee shall remain the property of the Lessee until the expiration or earlier termination of this Lease, at which time they shall remain on the Premises and become the property of Lessor. If and to the extent Lessee owns any fixtures (“**Fixtures**”) which are located at the Premises and used in the operation and management of the Premises for the Permitted Use, Lessee agrees such Fixtures will become the property of Lessor upon surrender or earlier termination of this Lease. However, it is acknowledged that Lessor shall not have any rights with respect to any Fixtures owned by Subtenants of Lessee at the Premises.

15.9. Certificate of Completion. Within five (5) Business Days of Lessee notifying Lessor of the issuance of a certificate of occupancy for the residential portions of the Project (or a temporary certificate of occupancy or other legal permits or sign-offs that will allow Lessee to legally lease residential spaces to tenants) and a temporary certificate of occupancy with respect to the base, shell and core for any office or retail portions of the Project (or other legal permits or sign-offs that will allow the office and retail spaces to be legally occupied upon completion of interior spaces of the Improvements) (such certificates, permits or sign-offs collectively, the “**Certificate of Occupancy**”), Lessor shall provide to Lessee a written instrument certifying the completion of construction of the Improvements (the “**Certificate of Completion**”). The Certificate of Completion shall be conclusive evidence that Lessee has fulfilled its obligations under this Lease and the DDA with respect to construction of the Improvements. The issuance of such Certificate of Completion shall be in addition to any approvals required to be obtained from the City of Vancouver in its regulatory capacity, and such issuance shall not constitute approval by or otherwise the bind City of Vancouver in its regulatory capacity. Following Lessor’s delivery to Lessee of the Certificate of Completion, the parties shall execute and record a certificate of completion of the Project in the official records of Clark County, and such recorded certificate shall be conclusively determinative that Lessee has completed construction of the Project.

15.10. Public Benefits.

15.10.1. Sustainability. In constructing the Initial Improvements, Lessee agrees to meet the sustainability objectives outlined in Exhibit G attached hereto.

15.10.2. [Delete if not applicable to the specific GL Parcel: Public art program. Lessor and Lessee have identified one or more locations on the Premises for the installation of public art during the Initial Term. Lessee shall solicit artwork through the City’s Public Art Program, which is subject to review by the City’s Culture, Arts and Heritage Commission. Public art shall be installed and maintained in accordance with the City’s Public Art Program.

15.10.3. Workforce and business development strategy. Lessee shall actively engage a diverse and local workforce to construct the Initial Improvements required by this Lease by implementing the workforce and business development strategy set forth on Exhibit H attached hereto.

15.10.4. Intentionally Omitted.

15.10.5. [To be revised for the applicable GL Parcel: Access Easements. Lessee acknowledges that it is executing this Lease and taking its leasehold interest in the Premises subject to pedestrian access easements over and across the open space depicted on Exhibit I attached to this Lease.

15.10.6. Tree Canopy. As part of construction of the Initial Improvements, Lessee shall plant trees in accordance with the tree plan attached to this Lease as Exhibit J.

15.10.7. Signage. The Initial Improvements will include signage in conformance with the Design Guidelines and Vancouver City Code.

15.11. City's Regulatory Discretion. Lessee acknowledges that execution of this Lease by Lessor does not constitute approval by Lessor in its regulatory capacity (as distinguished from its proprietary capacity as the owner of the Property and as a party to this Lease) of any required or additional entitlements or approvals and in no way limits the discretion of Lessor in the regulatory permit approval process. This Lease does not vest any land use or development standards for the benefit of Lessee. Lessor, in its proprietary capacity, shall assist Lessee throughout any and all entitlement, approval and permitting processes but does not represent or warrant that its assistance will guarantee any regulatory approval. In the event of any conflict between Lessor, acting in its regulatory capacity, and Lessor, acting in its proprietary capacity under the Lease, then Lessor's decisions in its regulatory capacity shall govern and control

15.12. General Construction Requirements

15.12.1. **Costs; Good and Workmanlike Manner**. All construction and other work in connection with the Improvements and any alterations thereto shall be done at no cost to Lessor and in a good and workmanlike manner with new or like-new materials. Throughout the construction of the Improvements and through completion of construction of the same, Lessee shall provide Lessor with written progress reports as to the progress of construction, which reports shall be on a monthly basis.

15.12.2. **Compliance**. Lessee shall include language in the contract with its general contractor requiring the general contractor to construct the Improvements in accordance with (a) all Applicable Laws, and (b) plans and specifications that are in accordance with the provisions of this Section 15 and all other applicable provisions of this Lease. If Lessor has actual knowledge that its general contractor is failing to comply with the foregoing obligations, Lessee shall use commercially reasonable efforts to enforce the same against the general contractor.

15.12.3. **Safety**. Lessee shall include language in the contract with its general contractor for construction of the Improvements and for all alterations thereto requiring such general contractor to implement a safety plan during construction.

15.12.4. **As-Builts**. As Lessor's written request therefor, which request shall include Lessor's agreement to pay for the same, Lessee shall prepare and maintain (or require the general contractor or architect to prepare and maintain) upon completion of construction, record drawings ("as-builts") showing clearly all changes, revisions and substitutions during construction, including, without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, structural members, walls, partitions and other significant features of the Improvements and any alterations thereto. Lessee, at Lessor's expense, shall also make a copy of the as-built drawings and deliver electronic copies of the same to Lessor within sixty (60) days after completion of construction of the Improvements or alterations thereto.

15.13. Maintenance, Repairs and Operation. During the Term, Lessee, without any cost or expense to Lessor, shall keep and maintain the Premises and all Improvements and appurtenant facilities, including without limitation the structural components, roof, fixtures, and building systems of the Improvements, grounds, groundwater, stormwater facilities, detention ponds, wetlands, soil, sidewalks, open space, parking and landscaped areas, in first class condition and repair and in compliance with all Applicable Laws. Lessee shall promptly make all repairs, replacements and alterations (whether structural or nonstructural, foreseen or unforeseen, or ordinary or extraordinary) necessary to maintain the Premises and the Improvements in good condition and repair, in a general condition that is commensurate with buildings in Vancouver, Washington that are similar in type and of a similar age, in compliance with all Applicable Laws, and as necessary to avoid any structural damage or injury to the Premises, the Improvements, or any persons in or around the Premises. Lessee's property manager ("**Property Manager**") shall have at least five (5) years of experience managing similar properties.

15.14 Sustainability. Lessor maintains high standards for environmental stewardship in operating and maintaining all of its facilities. Accordingly, Lessee agrees to operate and maintain the Premises with good faith, reasonable efforts to (a) use Energy Star appliances or their equivalent and employ sound practices to conserve energy, (b) encourage and facilitate the ability of tenants to car pool, commute via public transportation, and/or use other alternative methods of transportation, and (c) maintain and operate the Premises, and/or require that any third party property manager(s) maintain and operate the Premises, in compliance with those sustainability standards and requirements required to maintain all of the installed equipment, systems and assets in accordance with the manufacturer's recommendations and industry

standards.

15.15 No Obligation of Lessor to Repair. Other than the repair of damage caused by Lessor, its agents, contractors or employees, Lessor shall not be obligated to make any repairs, replacements or renewals of any kind, nature or description whatsoever to the Premises or the Improvements. Lessee hereby expressly waives any right to terminate this Lease and any right to make repairs at Lessor's expense under any Applicable Laws, except for the repair of damage caused by Lessor, its agent, contractors or employees.

## 16. INSURANCE:

### 16.1. Property Damage.

16.1.1. **Builders Risk.** Until final completion of construction of the Improvements, the construction is at the risk of Lessee. Lessee shall purchase and maintain Builders Risk insurance upon the work at the site to the full insurable value until completion of construction of the Improvements. Said insurance will insure against the perils customarily insured against in such Builders Risk policies, including flood (if the Project is located within the 100-year flood plain) for physical loss and damage. The insurance shall include damages, losses and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property.

16.1.2. **Property Insurance.** Following completion of construction, Lessee shall, at all times, maintain Cause of Loss – Special Form property insurance upon any buildings and facilities, including any permanent additions and improvements thereto, of which the Premises form a part, in an amount equal to the full replacement cost thereof or with lesser limits as agreed by both Lessor and Lessee. Such insurance shall contain an agreed valuation provision in lieu of any co-insurance clause, an ordinance and law endorsement, debris removal coverage, business interruption coverage, extra expense coverage and a waiver of subrogation endorsement. Any and all payments from said policies or certificates of insurance, indemnity bonds and similar securities shall be made payable to and deposited with Lessee or as required by its mortgagee(s). Further, and to the extent commercially available, all such policies shall contain a provision whereby the same cannot be canceled or modified unless Lessor is given at least thirty (30) Days prior written notice of such cancellation or modification. Lessee shall be responsible for the insurance premium and any deductible.

16.2. **Liability.** Lessee shall maintain, with financially sound and reputable insurers (*see Section 16.5.1* below), commercial general liability insurance written on an "occurrence" policy form with coverage at least as broad as ISO CGL form CG 0001, including contractual liability, against claims for bodily injury, property damage, and personal injury occurring on or about the Premises or in any way relating to or arising out of Lessee's use or occupancy of the Premises with minimum limits as provided in Section 1.11, which amount shall be consistent with commercially reasonable insurance standards but in no event shall be less than the Minimum Coverage Amount set forth in Section 1.11. Lessor shall be named as an additional insured with coverage at least as broad as form ISO CG 2026 – Designated Person or Organization, without modification, affording coverage regardless of the additional insureds' sole or concurrent negligence. Such insurance shall be endorsed to provide that the insurance shall be primary to and not contributory to any similar insurance carried by Lessor and shall contain a severability of interest or cross liability clause.

16.3. **Business Interruption Insurance.** Lessee shall maintain business interruption insurance through the Term. Coverage will include payment to the Lessor of the amount of annual Rent then payable to Lessor for a period of at least six (6) months.

16.4. **Pollution Legal Liability.** During the Construction Period, Lessee shall maintain or cause its general contractor to maintain pollution legal liability or contractor's pollution liability coverage with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per claim and Two Million and 00/100 Dollars (\$2,000,000.00) aggregate. Coverage shall include both new Releases of Hazardous Substances and exacerbation of existing environmental contamination. Lessor acknowledges that certain classes of risks may not qualify for Pollution Legal Liability or Contractor's Pollution Liability coverage. Lessor retains the right to require pollution legal liability coverage to be maintained in an amount and on terms to be mutually agreed upon by Lessor and Lessee if and to the extent there is a material change in the types or amounts of Contaminated Media which will be handled at the Premises as set forth in the CMMP.

16.5. Miscellaneous.

16.5.1. **Insurance Carrier Requirements.** Lessee's insurance carrier(s), for all insurance referenced in this Lease, shall be a reputable insurance company licensed to do business in the State of Washington. Lessee's insurance carrier(s) shall have a minimum A-VIII rating as determined by the then current edition of Best's Insurance Reports published by A.M. Best Co.

16.5.2. **Certificates of Insurance.** To establish that Lessee's insurance obligations have been met, Lessee shall provide Lessor with certificates of insurance prior to or at the Term Commencement Date and renewals thereof prior to expiration of existing policies. Certificates of insurance shall have a copy of additional insured endorsement in favor of Lessor attached and, to the extent commercially available, provide that the policies are not subject to cancellation or material change without at least thirty (30) Days advance written notice to Lessor.

16.5.3. **Umbrella or Blanket Coverage.** Lessee shall be entitled to provide insurance coverage which it is obligated to carry pursuant to the terms of the Lease under a blanket or umbrella insurance policy.

16.5.4. **Workers Comp and Employers Liability.** At all times that Lessee directly retains employees, Lessee shall provide workers' compensation coverage, pursuant to statutory requirements. Lessee further agrees to maintain Employers Liability Act ("ELA") or Stop Gap coverage as required by law of at least the Minimum Coverage Amount set forth in Section 1.12.

16.5.5. **Automobile Liability.** At all times that Lessee owns at least one automobile, Lessee shall provide Automobile Liability insurance with coverage at least as broad as Business Automobile Liability ISO form CA 0001, covering all owned, non-owned and hired automobiles brought on the premises, with coverage of at least the Minimum Coverage Amount set forth in Section 1.11.

16.5.6. **Waiver of Subrogation.** Notwithstanding anything in this Lease to the contrary, neither party, nor its Related Parties, nor, in case of Lessee, its sublessees, shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) insuring the other party, for any loss or damage to any building, structure or other property (whether real or personal) arising from any cause that (i) would be insured against under the terms of any property insurance required to be carried hereunder (or, with respect to Lessor, which a reasonably prudent owner of real property similar in size, type, use, location, and quality as the Premises would carry), or (ii) is insured against under the terms of any property insurance actually carried, regardless of whether the same is required hereunder, even though such loss or damage might have been occasioned by the negligence of such party or its Related Parties. Each party shall notify their respective insurance companies of this waiver of any rights of subrogation that such companies may have against Lessor or Lessee, as the case may be and shall obtain any necessary endorsement to avoid such waiver's invalidating the policy in whole or in part. Further, neither party nor the Related Parties shall be liable for: (1) any such damage caused by other lessees or persons in, upon or about the Premises, or caused by operations in construction of any private, public or quasi-public work; or (2) consequential damages, including lost profits, of either party or any person claiming through or under Lessee or Lessor as applicable.

16.5.7. **Failure to Maintain.** Lessor shall have the right to force place any insurance required to be maintained by Lessee hereunder if Lessee fails to obtain same within thirty (30) Days of receipt of written notice of such failure, and the costs of such force placed insurance shall be an Additional Charge.

16.6. **Lessor Insurance.** Lessor shall maintain in effect at all times insurance coverage consistent with the coverage customarily carried by ground lessors of property comparable in size, type, quality and location as the Premises, including but not limited to (1) commercial general liability insurance with limits of no less than Ten Million and 00/100 Dollars (\$10,000,000) per occurrence and annual aggregate, which may be comprised of both primary and excess layers, and (2) pollution liability insurance with limits of not less than One Million and 00/100 Dollars (\$1,000,000.00) per claim and Two Million and 00/100 Dollars (\$2,000,000.00) aggregate. Such insurance carriers shall have an A.M. Best rating of not less than "A-" and Financial Size Category Rating of not less than "VIII" according to the latest edition of Best's Key Rating Guide. **[To be attached:** Notwithstanding the foregoing, Lessor self-insures consistent with the parameters set forth in Schedule 16.6. So long as Lessor complies with Schedule 16.6, Lessor shall be deemed to comply with this section.

16.7. Coverage Amounts During Option Term(s). If the parties execute an amendment to the Lease or Lessee exercises either of its Option(s) to extend the Term of the Lease, the insurance coverage amounts set forth in Sections 1.10, 1.11 and, if applicable, 1.12, and Section 16 shall be reviewed and adjusted, as agreed to by the parties, to provide appropriate insurance coverages consistent with commercially reasonable insurance standards at that time. Notwithstanding the foregoing, it is acknowledged that Lessee shall not be obligated to carry pollution legal liability coverage after expiration of the Construction Period, except to the extent required by the last sentence of Section 16.4.

## 17. RELEASE AND INDEMNIFICATION COVENANTS:

17.1. Indemnification by Lessee. Subject to Section 16.5.6 (Waiver of Subrogation), Lessee releases Lessor and all officials and employees of Lessor from, and covenants and agrees that neither Lessor nor any Related Party of Lessor shall be liable for, and agrees to defend, indemnify and hold Lessor and its Related Parties (hereinafter the “**Lessor Indemnitee**” or “**Lessor Indemnitees**”) harmless against, any and all claims, actions, proceedings, damages, liabilities, costs, and expenses incurred (including, without limitation, all attorneys’ fees and expenses arising in connection with each such claim, action or proceeding) from or in connection with: (i) the conduct, operation and management of the Premises or of any business therein, or any work or thing whatsoever done, or any condition created, therein or thereon; (ii) any act, omission, or negligence of Lessee or any of its sublessees or licensees or its or their partners, directors, officers, agents, employees, invitees (but only when a claim, action or proceeding is related to such invitees’ presence on the Premises) or contractors; (iii) any incident, injury or damage whatsoever occurring in, at or upon the Premises; and/or (iv) any third party claim arising out of a breach or Default by Lessee in the full and prompt payment and performance of Lessee’s obligations under this Lease. Notwithstanding the foregoing or anything to the contrary herein, Lessee shall not be obligated to indemnify Lessor for any loss, damage, injury or death to the extent attributable to the sole negligence or intentional misconduct of Lessor or Lessor Indemnitees; and if and to the extent that this Lease is subject to RCW Section 4.24.115, it is agreed that where liability for damages arising out of bodily injury to persons or damage to property is caused by or results from the concurrent negligence of (a) the Lessor Indemnitee or Lessor Indemnitee’s agents or employees, and (b) the Lessee or its Related Parties, Lessee’s obligations of indemnity under this Section 17 shall be effective only to the extent of the Lessee’s negligence. Further, it is acknowledged that liability for any loss, claim, fine or penalty arising from the Release of Hazardous Substances or any violation of Environmental Laws shall be governed by the terms of Section 12 (Presence and Use of Hazardous Substances) of this Lease and not by this Section 17; and liability for property damage arising from a fire or other casualty shall be governed by Section 18 of this Lease and not by this Section 17.

17.2. Indemnification Procedures. If any action shall be brought against any Lessor Indemnitee in respect of which indemnity may be sought against Lessee, such Lessor Indemnitee shall promptly notify Lessee in writing and Lessee shall assume the defense thereof, including the employment of counsel and the payment of all expenses incident to such defense. Such Lessor Indemnitee shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such Lessor Indemnitee unless the employment of such counsel has been authorized by Lessee or counsel for Lessee shall have advised Lessor in writing that there exists actual or potential conflicts of interest which make representation by the same counsel inappropriate. Lessee shall not be liable for any settlement of any such action without its consent but, if any such action is settled with the consent of Lessee or if there be final judgment for the plaintiff of any such action, Lessee agrees to indemnify and hold harmless Lessor Indemnitees from and against any loss or liability by reason of such settlement or judgment.

17.3. Waiver of Immunity Under Industrial Insurance Act. Lessee specifically and expressly waives any immunity that may be granted Lessee under the Washington State Industrial Insurance Act, Title 51 RCW, or its successor. Further, the indemnification obligation under this Lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers’ compensation acts, disability benefits acts or other employee benefits acts.

17.4. Indemnification by Lessor. Lessor shall indemnify and hold harmless Lessee and its Related Parties (“**Lessee Indemnitee**” or “**Lessee Indemnitees**”) from and against any and all third party claims for bodily injury and/or property damage arising from or in connection with (i) any material breach by Lessor of this Lease, and (ii) any act, omission, or negligence of Lessor or any of its agents, employees, or contractors; together with all costs, expenses and liabilities incurred or in connection with each such claim or action or proceeding brought thereon, including, without limitation, all attorneys’ fees and expenses at trial and upon appeal, except that (1) Lessor’s

indemnity shall not apply to bodily injury, death and/or property damage attributable to the sole negligence or intentional misconduct of Lessee or Lessee Indemnitees; (2) if and to the extent that this Lease is subject to RCW Section 4.24.115, it is agreed that where liability for damages arising out of bodily injury to persons or damage to property is caused by or results from the concurrent negligence of (a) a Lessee Indemnitee or Lessee Indemnitees, and (b) the Lessor or the Lessor's agents, employees or contractors, Lessor's obligations of indemnity under this section shall be effective only to the extent of the Lessor's negligence; (3) liability for any loss, claim, fine or penalty arising from the Release of Hazardous Substances or any violation of Environmental Laws shall be governed by the terms of Section 12 (Presence and Use of Hazardous Substances) of this Lease and not by this Section 17; and (4) liability for property damage arising from a fire or other casualty shall be governed by Section 18 of this Lease and not by this Section 17.

17.5. *Lessee's Assumption of Risk and Waiver.* As a material part of the consideration to Lessor for entering into this Lease, Lessee agrees that neither Lessor nor any Lessor Party shall be liable to Lessee for, and Lessee expressly assumes the risk of and waives, releases and discharges Lessor and all Lessor Parties from any and all claims, damages, liabilities, costs and expenses of any kind or nature relating in any manner, directly or indirectly, in whole or in part, to the Premises or this Lease, whether resulting from any act or omission of Lessor or from any other cause whatsoever, including without limitation: (a) the performance of any public or quasi-public works on or near the Premises; (b) any loss or theft of, or damage to, any Improvements or personal property; (c) any act or omission of any person accessing the Premises pursuant to an easement or right of entry reserved under this Lease or implied by Applicable Law and (d) any past, present or future aspect, feature, characteristic, circumstance or condition arising out of or in connection with the Premises. Notwithstanding the foregoing, the assumption of risk and waiver and release contained in this Section 17.5 shall not apply to the extent of the negligence or willful misconduct of Lessor, its agents, employees or contractors or to the breach of this Lease in any material respect by Lessor, its agents, employees or contractors.

17.6. *Survival.* The indemnification provisions of this Section 17 shall survive the expiration or earlier termination of this Lease, and are independent of, and will not limit or be limited by, any insurance obligations in this Lease (whether or not complied with).

## **18. DAMAGE OR DESTRUCTION:**

18.1. *Restoration Obligations.* In the event the Improvements located on the Premises or any portion thereof shall be damaged or destroyed by fire or any other insured casualty or action of the elements, or any other insured peril whatsoever ("Casualty"), at any time during the Term, then and in such event, unless Lessee elects to terminate this Lease in accordance with Section 17.3, Lessee will repair and restore the Improvements located on the Premises in substantially the same location and condition before damage occurred (subject to compliance with current codes and regulations).

18.2. *Insurance Proceeds.* Unless Lessee elects to terminate the Lease in accordance with the terms of Section 17.3, the proceeds of any insurance policies on the Improvements (the "Proceeds") actually received by Lessee from any insurance policies on the Improvements (following payment of any such Proceeds to a Permitted Leasehold Mortgagee) shall be first devoted to the repair and restoration of the damaged or destroyed Premises and the expenditure of such sum by Lessee for the restoration thereof shall be considered in full compliance with the covenant to repair and restore. Notwithstanding the foregoing, if a Permitted Leasehold Mortgagee (as defined in Section 21.2) is entitled to all or a portion of any Proceeds, Lessee shall only be deemed to have received the amount of Proceeds remaining after any such portion has been provided to the Permitted Leasehold Mortgagee.

18.3. *Lessee Termination Right.* Lessee shall be entitled to terminate this Lease if (i) the Improvements located on the Premises are damaged or destroyed to an extent exceeding fifty percent (50%) of the then fair market value of such Improvements, (ii) the Improvements located on the Premises are damaged or destroyed during the last two (2) years of the Term, or (iii) the Proceeds actually received by Lessee and available for the repair of the Improvements (following the application of Proceeds by any Permitted Leasehold Mortgagee to pay down the applicable loan) are not sufficient to complete such repair and restoration. If Lessee does not elect to terminate this Lease, Lessee shall repair and restore the Premises in the same location and condition as before damage occurred (subject to adjustment to comply with current codes and regulations). If Lessee elects to terminate this Lease, Lessee shall give Lessor written notice of such termination within one hundred twenty (120) Days of the date of damage. If

Lessee is not in Default under this Lease, any prepaid or unearned rent shall be returned to Lessee. If Lessee elects to terminate this Lease under this section, Lessee, at Lessee's cost, shall leave the Premises in a condition free of debris and other safety hazards. Further, if Lessee has Proceeds remaining following payment of any Proceeds to a Permitted Leasehold Mortgagee, Lessee, at Lessee's cost to the extent of such Proceeds, shall remove the above-ground Improvements and return a cleaned, level Premises back to Lessor.

18.4. Reduction of Rent. If a Casualty gives rise to a right of termination by Lessee but Lessee instead elects to repair and restore the Improvements located on the Premises or any portion thereof, Lessee shall be entitled to a pro rata reduction of Rent equal to that portion of the building or property that is unusable as a result of the damage and/or destruction and that is being restored, as determined by Lessee and approved by Lessor, which approval Lessor will not unreasonably withhold, condition or delay, commencing on the date of the applicable damage or destruction and continuing until substantial completion of the repair and restoration; provided that rent shall not be abated for a period of time exceeding twenty-four (24) months.

## 19. SUBORDINATION AND ATTORNMENT:

19.1. Transfer of Lessor Interest. Subject to Section 44 (Right of first Refusal to Purchase Premises), Lessor shall have the absolute right to sell, transfer, convey, assign, and encumber its interest in this Lease and its estate in the Premises (called "**Lessor's Interest**"), or any part thereof (including, but not limited to, Lessor's reversion), and to delegate all or any portion of its obligations hereunder, from time to time as it sees fit, without obtaining any approval from Lessee. In the event of a sale, transfer, conveyance or other termination of Lessor's interest in the Premises, and provided the purchaser or assignee assumes all of Lessor's obligations under this Lease in writing, Lessor shall be and is entirely freed and relieved of all liability of Lessor thereafter accruing.

19.2. Attornment. In the event that Lessor sells or assigns its interest or estate absolutely, Lessee shall be bound to the purchaser or assignee who assumes all of Lessor's obligations under this Lease in writing, and the purchaser or assignee shall be bound to Lessee, under all of the covenants, terms and conditions of this Lease for the balance of the Term with the same force and effect as if such purchaser or assignee was the Lessor under the Lease, and Lessee hereby attorns to such purchaser or assignee as its landlord, such attornment to be effective and self-operative without the execution of any further instrument on the part of either of the parties hereto immediately upon such purchaser's or assignee's succeeding to the interest or estate of Lessor. If Lessor should grant, mortgage or assign its interest in the Premises for security purposes (a "**Mortgage**") and such Mortgage is either: (1) foreclosed for any reason and Lessor's interest or estate is sold as upon execution in the manner provided by law or (2) Lessor's interest or estate is sold at public or private sale by the holder of the Mortgage ("**Mortgage**"), Lessee shall be bound to the purchaser at such sale under all of the covenants, terms and conditions of this Lease for the balance of such term hereof remaining with the same force and effect as if such purchaser was the Lessor under the Lease, with the purchaser also being similarly bound. Specifically, on receipt of a notice from Mortgagee that Rents should be paid to Mortgagee, Lessee shall pay all Rents to Mortgagee or its designee directly. If the Mortgagee succeeds to the interest of Lessor under the Lease, Mortgagee shall not be: (i) liable for any act or omission of Lessor or any prior landlord; (ii) liable for the return of any Security Amount unless such security has been delivered to Mortgagee by Lessor or is in an escrow fund available to Mortgagee; (iii) subject to any offsets or defenses that Lessee might have against any prior landlord (including Lessor); (iv) bound by any rent or additional rent that Lessee might have paid for more than the current month to any prior landlord (including Lessor) unless such rent or additional rent has been delivered to Mortgagee by Lessor or is in an escrow fund available to Lessor; (v) bound by any amendment, modification, or termination of the Lease made without Mortgagee's consent (provided Lessee was given notice of such Mortgage and such Mortgagee's address at least thirty (30) Days prior to entering into same and provided further that Mortgagee's consent shall not be required for an amendment which documents the exercise of a right granted to Lessee hereunder, such as extension and expansion options); (vi) personally liable under the Lease, Mortgagee's liability hereunder being limited to its interest in the Premises; or (vii) bound by any notice of termination given by Lessor to Lessee without Mortgagee's prior written consent thereto (provided Lessee was given notice of such Mortgage and such Mortgagee's address at least thirty (30) Days prior to giving same). If during the pendency of foreclosure proceedings or otherwise, there is appointed by the court a receiver for the property of which the Premises are a part, Lessee hereby attorns to the receiver as its landlord during the pendency of such foreclosure proceeding, such attornment to be effective and self-operative without the execution of any further instrument on the part of either party.

19.3. Mortgagee Opportunity to Cure. If requested by any Mortgagee, or any ground lessor, Lessee will agree to give such Mortgagee or ground lessor, a reasonable opportunity to cure any Default by Lessor under this lease.

19.4. Subordination. It is expressly understood and agreed that any Mortgage on the fee interest of the Premises shall attach solely to the Lessor's Interest and shall be expressly subject and subordinate to this Lease (as it may be amended from time to time) and Lessee's rights hereunder.

## 20. ASSIGNMENT OR SUBLEASE:

20.1. Assignments Requiring Consent. Except as set forth in Sections 20.6 (Subleases) and 20.7 (Permitted Transfers), Lessee shall not assign this Lease without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed. With respect to any assignment which requires Lessor's consent pursuant to this Section 20, Lessee shall notify the Lessor in writing of any planned assignment of this Lease and the Lessor shall have up to thirty (30) Days following receipt of such notice of assignment to provide or withhold consent.

20.2. Conditions to Approval. Lessee agrees that it shall be conclusively presumed to be reasonable for Lessor to consider the following requirements in determining whether or not to consent to a proposed Transfer:

- (a) No Event of Default shall have occurred and remain uncured under this Lease;
- (b) Lessee shall have complied with all provisions of this Article 20;
- (c) The use of the Premises by the transferee shall comply with the provisions of this Lease and shall not materially increase the risk of a claim under any Environmental Law as a result of any activity to be conducted by the transferee at the Premises;
- (d) The proposed transferee shall be a knowledgeable developer, investor or land owner that (i) has (or has a manager or operator that has), together with its Affiliates, not less than **[Insert applicable criteria based on product type (parking or residential): 500,000 square feet of parking facilities [or- 500 units of residential apartments]** in its portfolio of real estate assets];
- (e) The proposed transferee shall not have filed a petition in bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation under any law or statute of any government or any subdivision within five (5) years prior to the date of the proposed Transfer;
- (f) No civil or administrative judgments involving fraud or dishonesty, or criminal convictions of any kind, have been entered against the proposed transferee or its officers or managers within the five (5) years prior to the date of the proposed Transfer;
- (g) The proposed transferee shall not have been a party to litigation adverse to Lessor, or the subject of any default proceedings instituted by Lessor as landlord of property leased by the proposed transferee; and
- (h) The proposed transferee shall be (i) capable financially of performing Lessee's obligations under this Lease and all other obligations relating to the Premises, as reasonably determined by Lessor, or (ii) a Qualified Transferee. For purposes of this Lease, a "**Qualified Transferee**" shall mean any entity that has, together with its Affiliates, a tangible net worth of at least Twenty Million Dollars (\$20,000,000.00) or total real estate holdings of at least Two Hundred Fifty Million Dollars (\$250,000,000.00). Lessee shall provide Lessor with evidence reasonably acceptable to Lessor that any proposed entity qualifies as a Qualified Transferee.

20.3. No Waiver. The granting of consent to any assignment shall not constitute a waiver of Lessor's discretion to approve or disapprove any future request for permission to assign this Lease in accordance with the requirements of Section 20. Acceptance of Rent or other performance by Lessor following an assignment, whether or not Lessor has knowledge of such assignment, shall not constitute consent to the same nor a waiver of the requirement to obtain consent to the same.

20.4. Continuing Lessee Liability; Financial Information. Lessee shall be relieved of liability under this Lease accruing after the date of any assignment made in accordance with this Section 20. In connection with an assignment of this Lease that requires Lessor's consent hereunder (or for purposes of confirming the net worth or established access to capital pursuant to clause (iv) of Section 20.7), Lessee shall provide Lessor with reasonable current financial information for such assignee, which may include financial statements certified, reviewed or compiled by a certified public accountant, if available, or, in the absence thereof, a current (most recently available) balance sheet and current (most recently available) income statement certified by an officer of the assignee, reasonable evidence showing the assignee's established access to capital, or other current financial information, as may be appropriate. Lessor acknowledges that any financial information provided under this Section 20.4 with regard to a non-public company is Confidential Information (as defined in Section 39) and is to be used and disclosed only to Lessor, Lessor's attorneys and Lessor's accountants for Lessor's internal purposes. In addition, if requested by the applicable assignee to further protect the confidentiality of its financial information, Lessor agrees that Lessee (or the applicable assignee) may provide such financial information to Lessor at a designated location in Vancouver, Washington where Lessor's employees and agents will be permitted to review such financial information but shall not be entitled to make or receive copies thereof.

20.5. Transfer Fee. A handling and transfer fee ("**Transfer Fee**") equal to Lessor's reasonable and customary attorneys' fees, not to exceed Three Thousand and 00/100 Dollars (\$3,000.00), shall be payable by Lessee to Lessor if Lessee requests that Lessor consent to a proposed assignment of this Lease. Such Transfer Fee shall be payable within sixty (60) Days of the Lessee's receipt of an invoice therefor.

20.6. Right to Sublease.

20.6.1. Subleases. So long as Lessee complies with the terms of this Section 20.6, Lessee shall be entitled to sublease space within the Improvements to be constructed by Lessee on the Premises (each a "**Subleased Space**") to third parties (each, a "**Subtenant**") without Lessor's prior consent or approval. Each commercial sublease ("**Sublease**") shall include the provisions set forth on Exhibit K; such provisions shall not be applicable to and are not required for any residential Sublease.

20.6.2. Lessor Rights and Obligations. Further, in the event Lessee fails or refuses to pay Rent or Additional Charges when due or is otherwise in Default as defined in Section 24.2 (Default or Breach) of this Lease, Lessor shall be entitled to direct any sublessee of Lessee to pay all rental and other payments under the sublease directly to Lessor by written notice to such sublessee and without liability to the original Lessee, provided, that, (i) such amounts received will be applied to amounts owed by Lessee hereunder, with any surplus paid to Lessee, and (ii) Lessor shall only exercise such right if any Permitted Leasehold Mortgagee has not elected to exercise its remedies under Section 21 (Leasehold Mortgages) within the time periods provided therein. If any Subtenant of Lessee provides written notice to Lessor that it has entered into a Sublease for Sublease Space at the Premises and provides a notice address for Subtenant and a copy of the Sublease (which the Subtenant may redact to remove economic terms to prevent them becoming public records), then Lessor agrees to provide such Subtenant with notice of a default by Lessee hereunder. In the event Lessor elects to terminate the Lease due to a Default by Lessee, any Sublease shall automatically become a direct lease between Lessor and the Subtenant, subject to all terms and conditions of such Sublease and the terms of this Lease as properly applicable to such Subtenant, without further action by any party. Notwithstanding anything herein to the contrary herein, with respect to any Sublease covering residential uses, Lessor shall not be required to assume a Sublease that results in Lessor directly leasing to any such residential Subtenant, or receiving any rents or other amounts from such residential Subtenants, and Lessor may direct residential Subtenants to pay any such amounts to a receiver or other entity designated by Lessor. Following a default by Lessee entitling Lessor to assume residential Subleases or entitling Lessor to receive payments under any residential Subleases, Lessee shall reasonably cooperate with Lessor so as to allow Lessor to exercise its rights with respect to such residential Subtenants in compliance with laws.

20.7. Permitted Transfers.

20.7.1. Notwithstanding anything in this Lease to the contrary, Lessee shall have the right to assign this Lease without Lessor approval, but with written notice to Lessor, (i) prior to the issuance of a Certificate of Occupancy for the Initial Improvements and thereafter to one or more Affiliates of Lessee (for purposes of this Lease, an "**Affiliate**") shall mean any entity which is controlled by, under common control with, or controlling Lessee) or to

any joint venture entity of which Lessee or an Affiliate of Lessee is a part, (ii) at any time, to a lender or creditor, including a Permitted Leasehold Mortgagee, for security or collateral purposes. In connection with any assignment (except for an assignment pursuant to clause (ii) in the preceding sentence), the assignee shall assume the obligations of Lessee under the Lease accruing on and after the date of the assignment.

20.7.2. Further, notwithstanding anything in this Lease to the contrary, Lessee shall have the right to assign this Lease without Lessor approval, but with written notice to Lessor, following the issuance of a Certificate of Occupancy for the Initial Improvements: (a) to one or more Affiliates; (b) in connection with a sale of all or substantially all of Lessee's assets provided that the buyer is a Qualified Transferee and has the relevant experience (as defined in Section 20.7.5); (c) in connection with a public offering of Lessee or an Affiliate of Lessee; or (d) in connection with any merger, corporate reorganization or other corporate restructuring of Lessee or an affiliate of Lessee. In connection with any assignment relating to the foregoing, the assignee shall assume the obligations of Lessee and Lessee shall be released from any and all obligations under the Lease accruing on and after the date of the assignment.

20.7.3. Subject to Lessor's approval, which shall not be unreasonably withheld, conditioned or delayed, Lessee may assign this Lease to a master sublessee or to an owners' association, which transfer shall apply if and to the extent Lessee is successful in dividing Lessee's leasehold interest under the Lease into two or more commercial condominium units (each a "Unit") subject to the terms of this Lease and pursuant to applicable laws, rules and regulations. Subject to the following, Lessor will reasonably cooperate with Lessee's efforts to divide Lessee's leasehold interest under the Lease into Units, subject to Lessee's compliance as follows:

- Any declaration, covenants, conditions and restrictions, or similar document prepared to govern the operation, maintenance and administration of the Units shall be approved by Lessor in writing prior to recordation, which approval shall not be unreasonably withheld, conditioned or delayed (and Lessor will respond to Lessee's request for such approval within ten (10) Business Days).
- Any owners' association/master sublessee entity will coordinate the different Unit owners in a commercially reasonable manner so that there shall at all times be a single lessee under the Lease without any additional administrative burden to Lessor, unless otherwise approved by Lessor in writing.
- If and to the extent Lessee transfers a Unit interest, such transferee must have the relevant experience to operate the improvements constructed and operated upon the Unit so transferred. Prior to the effective date of any transfer of a Unit, Lessee shall provide to Lessor written notice and reasonable evidence confirming that the proposed operator of the Unit at issue has the relevant experience and such transfer is in compliance with the terms of this Lease, including the terms and conditions of this Section 20.7.
- This Lease shall at all times remain in full force and effect and shall be and remain binding upon each Unit as a superior right, and each Unit shall be subject to, and shall be operated in accordance with the terms and conditions of this Lease.

20.7.4. Lessee shall not file or record a residential condominium declaration against the Building or Land or sell or enter into an agreement to sell any apartment unit or any other portion of the Buildings as individual residential condominium units or permit any part of the Premises to be converted to or operated as a cooperative whereby the tenants or occupants thereof participate in the management or control of the Premises.

20.7.5. As referenced herein, "**relevant experience**" shall mean that the buyer, owner, developer or operator of a particular product type (i.e., retail, multifamily, office, as applicable) shall have the following experience: (a) with respect to a commercial or retail project, the buyer, owner, developer, operator or their respective Affiliates shall have owned, developed or operated at least five (5) commercial or retail projects measuring no less than ten thousand (10,000) square feet each; (b) with respect to a multifamily or mixed use multifamily project, the buyer, owner, developer, operator or their respective Affiliates shall have owned or operated at least five (5) multifamily or multifamily mixed use projects with at least fifty (50) units each; and (c) with respect to any office or

mixed used office project, the buyer, owner, developer, operator or their respective Affiliates shall have owned or operated at least five (5) office or mixed use office projects measuring no less than fifty thousand (50,000) square feet; and (d) with respect to any garage with more than twenty-five (25) parking spaces, the buyer, owner, operator or their respective Affiliates shall have owned or operated at least five (5) garages (which may include retail portions) measuring no less than thirty thousand (30,000) square feet.

## 21. LEASEHOLD MORTGAGES:

21.1. Right to Mortgage Lease. Lessee shall have the right, in addition to any other rights granted and without any requirement to obtain Lessor's consent, to mortgage or grant a security interest in Lessee's interest in this Lease, the Premises and the Improvements, and in any Subleases, under one or more leasehold mortgages or pursuant to a sale-leaseback financing arrangement to one or more Lending Institutions (as defined in Section 21.2) and/or under one or more purchase-money leasehold mortgages to a Lending Institution, and to assign this Lease and any Subleases to a Lending Institution as collateral security for such leasehold mortgages or pursuant to the sale-leaseback financing arrangement, on the condition that all rights acquired under such leasehold mortgages or pursuant to the sale-leaseback financing arrangement shall be subject to each and all of the covenants, conditions, and restrictions set forth in this Lease and to all rights and interests of Lessor, none of which covenants, conditions, restrictions, rights, or interests is or shall be waived by Lessor by reason of the right given to mortgage or grant a security interest in Lessee's interest in this Lease and the Premises and the Improvements, except as expressly provided otherwise. Lessor agrees to modify this Lease, or execute a Lessor estoppel certificate, as may be reasonably required by any Permitted Leasehold Mortgagee (defined below); provided, in no event shall same require Lessor to subordinate its interest in this Lease or its fee title ownership of the Premises to any Permitted Leasehold Mortgage or materially adversely affect the benefit of Lessor's economic bargain under this Lease; provided further, that additional or extended notice provisions with regard to the Leasehold Mortgagee shall not be considered to materially adversely affect the benefit of Lessor's economic bargain under this Lease.

21.2. Permitted Leasehold Mortgage; Lending Institution. Any debt financing arrangement made pursuant to this Section 21, including a mortgage or sale-leaseback financing transaction, is referred to as a "**Permitted Leasehold Mortgage**", and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "**Permitted Leasehold Mortgagee**". The Permitted Leasehold Mortgage that is prior in lien or interest among those in effect is referred to as the "**First Leasehold Mortgage**", and the holder of or secured party under the First Leasehold Mortgage is referred to as the "**First Leasehold Mortgagee**". For the purposes of any rights created under this section, any so-called wraparound lender that is a Lending Institution shall be considered a First Leasehold Mortgagee. If a First Leasehold Mortgage and a Permitted Leasehold Mortgage that is second in priority in lien or interest among those in effect are both held by the same Permitted Leasehold Mortgagee, the two Permitted Leasehold Mortgages are collectively referred to as the "**First Leasehold Mortgage**". A "**Permitted Leasehold Mortgage**" includes, without limitation, mortgages and trust deeds as well as financing statements, security agreements, sale-leaseback instrumentation, and other documentation that the lender may require. The words "**Lending Institution**", as used in this Lease, means (1) a bank (state, federal or foreign), trust company (in its individual or trust capacity), insurance company, credit union, savings bank (state or federal), pension, welfare or retirement fund or system, real estate investment trust (or an umbrella partnership or other entity of which a real estate investment trust is the majority owner), real estate investment fund, federal or state agency regularly making or guaranteeing mortgage loans, investment bank, subsidiary of a Fortune 500 company (such as General Electric Capital Corporation), real estate mortgage investment conduit, or securitization trust; (2) any issuer of collateralized mortgage obligations or any similar investment entity (provided that either (a) at least some interests in such issuer or other entity or loans held by them are publicly traded or (b) such entity was or is sponsored by an entity that otherwise constitutes a Lending Institution or has a trustee that is, or is an Affiliate of, any entity that otherwise constitutes a Lending Institution), or any Person acting for the benefit of or on behalf of such an issuer; (3) any Person actively engaged in commercial real estate financing and having total assets (on the date when its Leasehold Mortgage is executed and delivered, or on the date of such Leasehold Mortgagee's acquisition of its Leasehold Mortgage by assignment, but excluding the value of any Leasehold Mortgage encumbering this Lease) of at least One Hundred Million and 00/100 Dollars (\$100,000,000.00); (4) any Person that is a wholly owned subsidiary of or is a combination of any one or more of the foregoing Persons; or (5) any of the foregoing when acting as trustee, agent, or administrative agent for other lender(s) or investor(s), whether or not such other lender(s) or investor(s) are themselves Lending Institutions. The fact that a particular Person (or any Affiliate of such Person) is a partner, member, or other investor of the then Lessee shall not preclude such Person from being a Lending Institution and a Leasehold Mortgagee provided that: (x) such entity has,

in fact, made or acquired a *bona fide* loan to Lessee secured by a Leasehold Mortgage or is a Mezzanine Lender; (y) such entity otherwise qualifies as Lending Institution and a Leasehold Mortgagee (as applicable); and (z) at the time such entity becomes a Leasehold Mortgagee, no Event of Default exists under this Lease, unless simultaneously cured.

21.3. *Mortgagee Protections.* So long as a Permitted Leasehold Mortgagee has Permitted Leasehold Mortgage of record and such Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Lessor, the following provisions shall apply (in respect of such Permitted Leasehold Mortgage), notwithstanding anything else to the contrary set forth herein:

21.3.1. *Termination of Lease.* Except as expressly provided otherwise below, a Leasehold Mortgagee shall not be bound by any cancellation, termination, surrender, acceptance of surrender, amendment, or modification of this Lease without in each case the prior consent in writing of the Permitted Leasehold Mortgagee. Nor shall any merger result from the acquisition by, or devolution upon, any one entity of the fee and the leasehold estates in the Premises.

21.3.2. *Notice of Default.* Lessor shall, upon serving Lessee with any notice, whether of Default or any other matter, simultaneously serve a copy of such notice on the Permitted Leasehold Mortgagee, and no such notice to Lessee shall be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

21.3.3. *Right to Cure.* In the event of any Default by Lessee under this Lease, each Permitted Leasehold Mortgagee has the same period as Lessee has, plus thirty (30) Days, after service of notice on it of such Default, to remedy or cause to be remedied or commence to remedy and complete the remedy of the Default complained of for such default, and Lessor shall accept such performance by or at the instigation of such Permitted Leasehold Mortgagee as if the same had been done by Lessee. Each notice of non-monetary Default given by Lessor will state the nature of such Default and what, if any, Rent or Additional Charges are then claimed to be in default.

21.3.4. *Delay in Termination.* Intentionally Omitted.

21.3.5. *Additional Insured.* Lessor agrees that the name of the Permitted Leasehold Mortgagee may be added to the “**Loss Payable Endorsement**” of any and all insurance policies required to be carried by Lessee or Lessor.

21.3.6. *Other Covenants Benefitting Permitted Leasehold Mortgagees.*

21.3.6.1. Nothing contained in this Lease requires the Permitted Leasehold Mortgagee or its nominee to cure any Default that occurs as a result of the status of Lessee, such as Lessee’s bankruptcy or insolvency, or to discharge any lien, charge, or encumbrance against Lessee’s interest in this Lease junior in priority to the lien of the Permitted Leasehold Mortgage.

21.3.6.2. The First Leasehold Mortgagee shall be given notice of any arbitration or other proceeding or dispute by or between the parties and shall have the right to intervene and be made a party to any such arbitration or other proceeding. In any event, each Permitted Leasehold Mortgagee shall receive notice of, and a copy of, any award or decision made in the arbitration or other proceeding.

21.3.6.3. Any award or payment in condemnation or eminent domain in respect of the Improvements shall be paid to the First Leasehold Mortgagee for the benefit of the parties and applied in the manner specified in this Lease.

21.3.6.4. No fire or casualty loss claims shall be settled and no agreement will be made in respect of any award or payment in condemnation or eminent domain without in each case the prior written consent of the First Leasehold Mortgagee.

21.3.6.5. Except as otherwise provided in this Section 21, no liability for the payment of Rent or Additional Charges or the performance of any of Lessee's covenants and agreements shall attach to or be imposed on the Permitted Leasehold Mortgagee (other than any obligations assumed by the Permitted Leasehold Mortgagee), all such liability (other than any obligations assumed by the Permitted Leasehold Mortgagee) being expressly waived by Lessor.

21.3.6.6. Lessor, within ten (10) Days after request in writing by Lessee or any Permitted Leasehold Mortgagee, shall furnish a written statement, duly acknowledged, that this Lease is in full force and effect and unamended, or if there are any amendments, such statement will specify the amendments, and that there are no Defaults by Lessee that are known to Lessor, or if there are any known Defaults, such statement shall specify the Defaults Lessor claims exist.

21.3.6.7. No payment made to Lessor by any Permitted Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Lease; and the Permitted Leasehold Mortgagee having made any payment to Lessor pursuant to Lessor's wrongful, improper, or mistaken notice or demand shall be entitled to the return of any such payment or portion, provided it shall have made demand not later than one year after the date of its payment.

21.3.6.8. Lessor, on request, shall execute, acknowledge, and deliver to each Permitted Leasehold Mortgagee an agreement prepared at the sole cost and expense of Lessee, in form satisfactory to the Permitted Leasehold Mortgagee and Lessor, among Lessor, Lessee, and the Permitted Leasehold Mortgagee, agreeing to all the provisions of this Section 21.

21.3.6.9. Lessor shall at no time be required to subordinate its fee simple interest in the Premises to the lien of any leasehold mortgage, nor to mortgage its fee simple interest in the Premises as collateral or additional security for any leasehold mortgage. Lessor shall attorn to any Permitted Leasehold Mortgagee or any other person who becomes Lessee by, through, or under a Permitted Leasehold Mortgage.

21.3.6.10. Any right of Lessor to terminate this Lease by reason of a Default (other than a Default in the payment of Rent or Additional Charges under Section 25.3 or the failure to maintain insurance as required by Sections 15.1 through 15.5.5) shall be postponed so long as a Permitted Leasehold Mortgagee is actively engaged in steps to acquire the Lessee's ground lease estate either by foreclosure or deed-in-lieu of foreclosure. After any such foreclosure or deed-in-lieu of foreclosure by a Permitted Leasehold Mortgagee or an affiliate of a Permitted Leasehold Mortgagee, any right of Lessor to terminate this Lease by reason of a Default (other than a Default in the payment of Rent or Additional Charges under Section 25.3 or the failure to maintain insurance as required by Sections 15.1 through 15.5.5) shall be postponed so long as such foreclosure purchaser or deed-in-lieu transferee (the "**Foreclosure Purchaser**") remains actively engaged in steps to market or sell the Lessee's interest in this Lease to a prospective transferee meeting the requirements set forth in Section 20 of the Lease (the "**First Transferee**"); provided, however, (a) the postponement of the right of Lessor to terminate this Lease pursuant to this Section 21.3.6.10 shall expire upon the date that a First Transferee becomes the Lessee under this Lease (provided that such First Transferee and its successors and assigns shall continue to be afforded the cure rights provided in this Lease and, in any case, a reasonable opportunity to cure any existing Defaults after such First Transferee becomes the Lessee under this Lease) and (b) for the avoidance of doubt, any third party purchaser of the Lessee's interest in this Lease (i.e., a purchaser which is not a Permitted Leasehold Mortgagee or an affiliate of a Permitted Leasehold Mortgagee) shall be deemed to be a First Transferee rather than a Foreclosure Purchaser for purposes of this Section 21.3.

21.3.6.11. The acquisition of the Lessee's interest in this Lease by any person pursuant to the remedial provisions under a Permitted Leasehold Mortgage (or a deed-in-lieu thereof) shall be deemed to be a Permitted Transfer under this Lease.

21.3.6.12. A Permitted Leasehold Mortgagee or its nominee shall be entitled to a new lease as described in Section 21.3.7 in any circumstance where this Lease is terminated (and to the extent Lessor or any party acting with respect to Lessor seeks to reject this Lease in a bankruptcy or insolvency proceeding, Lessee shall be deemed to have elected to retain the Lease and the Permitted Leasehold Mortgagee shall be entitled to seek, on Lessee's behalf, the retention of the Lease.) Pursuant to Section 21.3.7.4 below, Lessor shall not be deemed to warrant

possession of the Premises or the Improvements to Lessee with respect to any residual claims by the original Lessee under this Lease but shall otherwise provide the identical warranties of possession provided in the original Lease.

21.3.6.13. Any of Lessor, Lessee, or a Permitted Leasehold Mortgagee may record or file a Memorandum of any estoppel certificate or other agreement required by such Permitted Leasehold Mortgagee of public record, and such recordation or filing shall not be deemed to be a default or Default under this Lease.

21.3.7. **New Lease.** Lessor agrees that in the event of termination of this Lease by reason of any Default by Lessee, Lessor will enter into a new lease of the Premises with the Permitted Leasehold Mortgagee or its nominee, for the remainder of the Term, effective on the date of such termination, at the Rent and Additional Charges and on the terms, provisions, covenants, and agreements contained in this Lease and subject only to the same conditions of title as this Lease is subject to on the date this Lease is executed, and to the rights, if any, of any parties then in possession of any part of the Premises, provided that Permitted Leasehold Mortgagee will get the benefit of all of the terms set forth in this Section 21.3 and the following:

21.3.7.1. The Permitted Leasehold Mortgagee or its nominee shall make written request on Lessor for such new lease within thirty (30) Days after the date of termination indicated in the notice of termination given to Permitted Leasehold Mortgagee and such written request shall be accompanied by payment to Lessor of Rent and Additional Charges then due to Lessor under this Lease.

21.3.7.2. The Permitted Leasehold Mortgagee or its nominee shall pay to Lessor, at the time the new lease is executed and delivered, any and all Rent and Additional Charges that would be due at the time of the execution and delivery of the new lease pursuant to this Lease but for such termination, and in addition any expenses, including reasonable attorneys' fees, to which Lessor shall have been subjected by reason of such Default.

21.3.7.3. The Permitted Leasehold Mortgagee or its nominee shall ensure that any security and guaranty(ies) are in full force and effect, and shall perform and observe all covenants contained in this Lease on Lessee's part to be performed and further shall remedy any other conditions that Lessee under the terminated Lease was obligated to perform, other than an obligation on the part of Lessee to construct or build; and upon execution and delivery of such new lease, any security that may have been assigned and transferred previously by Lessee to Lessor, as security under this Lease, shall then be held by Lessor as security for the performance of all the obligations of Lessee under the new lease.

21.3.7.4. Such new lease shall be expressly made subject to the rights, if any, of Lessee under the terminated Lease.

21.3.7.5. Lessee under such new lease shall have the same right, title, and interest in and to the Improvements on the Premises as Lessee had under the terminated Lease.

**22. LESSEE'S CERTIFICATE; LESSOR'S CERTIFICATE:** Lessee shall at any time and from time to time without charge, and within twenty (20) Days after written request therefor by Lessor, complete, execute, and deliver to Lessor a written statement concerning the terms of this Lease, whether it is in full force and effect, if there are any Defaults hereunder, and such other information as may be required by Lessor, but only as typically provided in an estoppel certificate. Lessor shall at any time and from time to time without charge, and within twenty (20) Days after written request therefor by Lessee, complete, execute, and deliver to Lessee a written statement concerning the terms of this Lease, whether it is in full force and effect, if there are any Defaults hereunder, and such other information as may be required by Lessee, but only as typically provided in an estoppel certificate.

**23. LESSOR'S LIEN AND SECURITY INTEREST:** Lessor hereby reserves its statutory lien right in all Improvements on the Premises for Rent. Lessor hereby waives its statutory lien right in all furniture, fixtures, equipment or other personal property located on the Premises.

**24. LIENS:** Except as allowed pursuant to Section 21, Lessee shall keep the Premises and Lessee's leasehold interest therein free and clear of, and shall indemnify, defend and hold harmless Lessor against, all monetary liens, charges, mortgages, and encumbrances (collectively, "Liens") which may result from any act or neglect of Lessee,

including, but not limited to, liens for utility charges and mechanics and materialman liens, and all expenses in connection therewith, including attorneys' fees; it being expressly agreed that Lessee or any transferee, assignee, delegate or sublessee shall have no power or authority to create any such Lien, except with the prior written approval of Lessor. Nothing herein shall prevent Lessee from contesting or litigating any Lien not believed by Lessee to be valid, providing that (i) such contest will not expose Lessor to civil or criminal liability, fine or penalty, (ii) such contest will not subject the Premises to sale, forfeiture, foreclosure or interference, and (iii) Lessee provides to Lessor security, reasonably satisfactory to Lessor against any loss or injury by reason of such contest, such as a lien release bond, and prosecutes the contest with due diligence.

**24.1** Lessor's Interests. In no event shall Lessor's fee interest in the Premises or reversionary interest in the Improvements (collectively, "**Lessor's Interest**"), be subject or subordinate to any Lien.

**24.2** Lessor's Right to Cause Release of Liens. If Lessee does not cause any Lien encumbering Lessor's Interest that Lessee does not contest in accordance with this Section to be released of record by payment or posting of a proper bond or insured over within thirty (30) days following the imposition of such Lien, Lessor shall have the right, but not the obligation, to cause the Lien to be released by any means Lessor may deem appropriate, and the amount paid by Lessor, together with Lessor's reasonable administrative fees, plus interest at the twelve percent (12%) per annum from the date of payment by Lessor, shall be additional Rent, immediately due and payable by Lessee to Lessor upon demand.

**25. DEFAULT OR BREACH:** Time is of the essence of this Lease. Each of the following events shall constitute a default of this Lease ("Default"):

**25.1.** Bankruptcy. If Lessee, or any successor or assignee of Lessee while in possession, shall file a petition in bankruptcy or insolvency or for reorganization under any Bankruptcy Act, or shall voluntarily take advantage of any such Act by answer or otherwise, or shall make an assignment for the benefit of creditors.

**25.2.** Insolvency Proceedings. If involuntary proceedings under any bankruptcy law or insolvency act shall be instituted against Lessee, or if a receiver or trustee shall be appointed for all or substantially all of the property of Lessee, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within one hundred twenty (120) Days after the institution or appointment, which period may be reasonably extended provided full Rent and Additional Charges are being paid to Lessor.

**25.3.** Late Rent. If Lessee shall fail to pay to Lessor Rent or Additional Charges within ten (10) Days after Lessor sends notice that same is past due.

**25.4.** Prohibited Transfer. If this Lease or the interest of Lessee under this Lease shall be assigned, sublet or otherwise transferred to or shall pass to or devolve on any other person or party, voluntarily or involuntarily, except in the manner expressly permitted in this Lease, and such transaction is not unwound or approved in writing by Lessor within thirty (30) Days after written notice from Lessor.

**25.5.** Non-Monetary Default. If Lessee shall fail to perform or comply with any other term or condition of this Lease, and if the non-performance shall continue for a period of thirty (30) Days after notice of non-performance given by Lessor to Lessee or, if the performance cannot be reasonably accomplished within the thirty (30) Day period, Lessee shall not in good faith have commenced performance or cure within the thirty (30) Day period and shall not diligently proceed to completion of performance. Lessee shall be deemed to be diligently proceeding to completion of performance and such performance shall be deemed to be within a reasonable time thereafter if the Lessee is undertaking steps with reasonable diligence and continuity in order to remedy such non-monetary default. Without limitation to the foregoing, if the non-monetary default at issue relates to the passage of any Project deadline, the requirement of undertaking steps "with reasonable diligence and continuity" shall be deemed to be satisfied so long as the Lessee is actively engaged in the planning, permitting, bidding, contracting or construction processes related to the objective of completing the Project.

**26. EFFECT OF DEFAULT:** In the event of any Default by Lessee under this Lease, Lessor shall have the following rights and remedies:

26.1. ***Injunction.*** In the event of any Default by Lessee or any person claiming under, by, or through Lessee, or any threatened or attempted Default by such person, Lessor shall be entitled to an injunction against such person enjoining such Default. Nothing herein contained precludes Lessor from pursuing any other remedies available hereunder or at law or equity to Lessor for such breach, including eviction and the recovery of damages.

26.2. ***Termination.*** Lessor shall have the right to terminate this Lease, as well as all right, title and interest of Lessee under this Lease, by giving to Lessee not less than ninety (90) Days' prior written notice of the termination effective on a date specified in the notice. No act of Lessor or its agents shall be deemed a termination of this Lease and no agreement of Lessor to terminate this Lease shall be valid, effective, or enforceable unless in writing and signed by Lessor or its agent. On the termination date specified in the notice, unless the Default is cured by Lessee before such date, this Lease, and the right, title and interest of Lessee under this Lease, shall terminate in the same manner and with the same force and effect, except as to Lessee's liability, as if such termination date was the end of the Term originally set forth in this Lease. On termination, Lessor may recover from Lessee all damages proximately resulting from the breach, including the cost of recovering the Premises and expenses if any to repair damage in order to lease the Premises.

26.3. ***Performance.*** Lessor may elect, but shall not be obligated, to make any payment required of Lessee in this Lease or to comply with any agreement, term, or condition required by this Lease to be performed by Lessee. Lessor shall have the right to enter the Premises for the purpose of curing any such Default and to remain until the Default has been cured. In either case, Lessor may charge to Lessee as Additional Charges the amount of such payment or the cost of such compliance or cure, together with interest thereon at the Interest Rate from the date of such payment. Any such cure by Lessor shall not be deemed to waive or release the Default of Lessee or the right of Lessor to take any action as may be otherwise permissible under this Lease in the case of any Default.

26.4. ***Appointment of Receiver.*** Lessor may (i) collect, or appoint a designee to collect, rent from Lessee and its sublessees as permitted under, and in accordance with, Section 20.6.2, and (ii) seek to procure pursuant to applicable law a receiver to take possession of the Premises subject to the rights of Lessee's Subtenants. Proceedings for the appointment of a designee by Lessor pursuant to clause (i) above, or the appointment of a receiver pursuant to clause (ii) above, including the actions taken by any such receiver pursuant to applicable law, shall not terminate and forfeit this Lease, unless Lessor has given written notice of termination to Lessee as provided in this Lease.

26.5. ***Damages.*** Lessor shall be entitled to recover damages from Lessee for any Default by Lessee, without prejudice to any of Lessor's other rights or remedies hereunder or at law or equity, including Lessor's right to terminate this Lease. If this Lease is terminated for any reason, Lessee's liability to Lessor for damages shall survive such termination. In the event of termination as a result of any Default by Lessee, Lessor shall be entitled to recover immediately without waiting until the due date of any future Rent and/or Additional Charges or until the date fixed for expiration of the Term, the following amounts as damages determined as of the date of termination:

26.5.1. ***Past Due Amounts.*** Any Rent, Additional Charges and late charges due under the Lease as of the date of termination, together with interest thereon at the Interest Rate from the date each sum became due through the date of termination;

26.5.2. ***Present Value of Future Obligations.*** Any excess of the value of all of Lessee's obligations under this Lease, including the obligation to pay Rent and Additional Charges, from the date of termination until the end of the Term remaining immediately prior to such Termination, over the reasonable rental value of the Premises for the same period figured as of the date of termination, plus the loss of reasonable rental value of the Premises as of the end of the Term resulting from Lessee's Default, the net result to be discounted to the date of termination at the rate of six percent (6%) per annum;

26.5.3. ***Reentry and Reletting Costs.*** The reasonable costs of re-entry and re-letting including, without limitation, the cost of any clean-up, refurbishing, removal of Lessee's property and fixtures, and any other expense occasioned by Lessee's failure to quit the Premises upon termination or to leave them in the required condition, and any remodeling costs, broker commissions and advertising costs, together with interest thereon at the Interest Rate from the date such costs are incurred by Lessor until paid; and

26.5.4. ***Other Damages Permissible.*** Any other damages recoverable at law, in equity or under this Lease, including, but not limited to, any doubling of damages permitted under RCW 59.12.170; provided, however, in no event shall Lessee be responsible for lost profits (except for present value of future rent pursuant to Section 26.5.2), or for consequential, special or punitive damages.

The foregoing damages shall bear interest at the Interest Rate from the termination date until paid.

26.6. ***Lessor's Rights Cumulative.*** Lessor's rights and remedies shall be cumulative and may be exercised and enforced concurrently. Any right or remedy conferred upon Lessor under this Lease shall not be deemed to be exclusive of any other right or remedy it may have. In the event of a Default in the payment of Additional Charges, Lessor shall have all the rights and remedies provided at law, in equity or in this Lease for a Default in the payment of Rent.

26.7. ***Default by Lessor.*** Before Lessee may declare a default by Lessor, Lessee shall give Lessor written notice of the specific failure of Lessor's obligations hereunder and thirty (30) Days from the receipt of such written notice in which to cure the alleged failure; provided however, that if such failure cannot reasonably be cured within such thirty (30) Day period, then Lessor shall promptly undertake and diligently pursue such curative performance to completion, all within a reasonable time. If Lessor fails to cure any such default within the time period or to diligently pursue such cure to completion, Lessee shall have all the rights and remedies provided at law, in equity or in this Lease, which rights shall be cumulative and may be exercised and enforced concurrently. Any right or remedy conferred upon Lessee under this Lease shall not be deemed to be exclusive of any other right or remedy it may have. Without limiting the generality of the foregoing, if Lessor fails to perform (or commence to perform and diligently pursue) any obligation of Lessor under this Lease within thirty (30) Days following Lessee's written notice to Lessor thereof, then Lessee may proceed to take the required action upon delivery to Lessor of an additional five (5) Days' notice specifying that Lessee is taking such required action (provided, however, that such additional notice shall not be required in the event of an emergency). If such action is not taken by Lessor within said five (5) Day period, then Lessee shall be entitled to take such action and to offset against Rent next coming due under this Lease, all costs and expenses incurred by Lessee in connection with such action.

## **27. CONDEMNATION OR TERMINATION BY COURT ORDER:**

27.1. ***Condemnation.*** If all or any part of the Premises are condemned by any public body, Lessor may, at its option, terminate this Lease as of the date of such taking, provided, however, such termination shall not be effective if Lessee believes that it can continue to operate the Improvements, in which case Rent shall be reduced to account for any part so taken. If the Lease is terminated and if Lessee is not in Default under any of the provisions of this Lease on said date, any Rent prepaid by Lessee shall be promptly refunded to Lessee. Upon such termination, the entire estate and interest of Lessee in the Premises shall cease and Lessee shall have no further rights or obligations hereunder.

27.2. ***Performance Prevented by Condemnation.*** If any court having jurisdiction in the condemnation matter shall render a decision which has become final and which will prevent the performance by Lessor or Lessee of any of its respective obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in Default under any of the provisions of this Lease on the effective date of such termination, any Rent or Additional Charges prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of termination, be promptly refunded to Lessee.

27.3. ***Condemnation Proceeds.*** In every case of taking or sale of the Premises, or any part thereof, the parties shall share in the compensation as their interests may appear. For avoidance of doubt, Lessor shall receive the value of the land treated as unimproved and unencumbered by this Lease, and Lessee shall receive the value of the leasehold estate created by this Lease and the value of the Project.

27.4. ***No Condemnation by City.*** During the entirety of the Term, Lessor shall not condemn all or any part of the Premises.

**28. HOLDING OVER:** If Lessee for any reason shall hold over after the expiration of this Lease, without written consent by Lessor, such holding over shall not be deemed to operate as a renewal or extension of this Lease, but shall only create a tenancy terminable at will at any time by Lessor. In this event the Rent owing from Lessee to Lessor shall equal one hundred fifty percent (150%) of the Rent during the last month prior to the holdover period, unless otherwise agreed. If Lessee, with written consent of Lessor, holds over after the expiration or sooner termination of this Lease, the resulting tenancy shall be on a month-to-month basis, upon agreed upon Rent terms. Lessee shall continue to be bound by all other pertinent provisions of this Lease.

**29. SURRENDER OF PREMISES:** Upon expiration or earlier termination of this Lease, Lessee shall promptly surrender possession of the Premises, and shall deliver all keys that it may have to any and all parts of the Premises. The Premises, along with all Improvements made pursuant to this Lease, shall be surrendered to Lessor in good condition, reasonable wear and tear excepted, and in the state of repair and maintenance required by the terms of Section 14.1 (Lessee Maintenance Obligations) of this Lease, ordinary wear and tear and casualty excepted (“**Surrender Condition**”), provided, however, (i) that in the event of a casualty, Lessee will surrender the Premises and Improvements in the condition required under Section 18 (Damage or Destruction) of the Lease, and (ii) Surrender Condition shall not mean or include upgrades or any capital repairs or replacements to systems or structure of the Improvements, unless and to the extent the need for such capital repairs or replacements arises directly due to Lessee’s failure to maintain the Improvements as required under Section 14.1. Prior to the turnover of the Premises to Lessor upon expiration or earlier termination of the Lease, representatives of Lessor and Lessee (which representatives may include contractors, vendors or other building experts), shall upon the written request of either, and subject to the terms of Section 13.1 (Access Rights), jointly conduct a walk-through of the Premises. In addition, Lessee, promptly following Lessor’s written request therefor, shall deliver to Lessor copies of Maintenance Records for a period of no less than five (5) years prior to the applicable expiration or earlier termination date as required under Section 14.1. Concurrently with surrender of the Premises, Lessee shall surrender to Lessor any Fixtures owned by Lessee which is located at the Premises and is used in the operation and management of the Premises for the Permitted Use, in its then-current “AS-IS” condition. Notwithstanding the foregoing, it is expressly understood and agreed that any Fixtures owned by Subtenants shall be governed by the terms of the applicable Subleases.

**30. JOINT AND SEVERAL LIABILITY:**

30.1. Joint and Several Liability. Each and every party who signs this Lease, other than in the representative capacity, as Lessee, shall be jointly and severally liable hereunder.

30.2. Meaning of Lessee. It is understood and agreed that for convenience the word “**Lessee**” and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessees under this Lease. In construing this Lease, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to entities and individuals.

**31. OWNERSHIP OF LAND, IMPROVEMENTS AND ALTERATIONS.** The Land shall continue to be owned by Lessor. All Improvements shall be owned by and the property of Lessee during, and only during, the Term and no longer. Lessee may from time to time replace the Improvements and any Alterations, provided that the replacements for such items are of equivalent or better value and quality than the Improvements at the time the replacement or Alterations are made, and such items are free from any liens and encumbrances except for equipment leases and any other financings expressly permitted hereunder. Upon any termination of this Lease, whether by reason of the expiration of the Term hereof, or pursuant to any provision hereof, or by reason of any other cause whatsoever, all of Lessee’s right, title and interest in the Improvements and any alterations thereto shall cease and terminate, and title to the Improvements shall immediately vest in Lessor. No further deed or other instrument shall be necessary to confirm the vesting in Lessor of title to the Improvements. However upon any termination of this Lease, Lessee, upon written request of Lessor, shall execute, acknowledge and deliver to Lessor a quitclaim deed confirming that all of Lessee’s rights, title and interest in the Improvements has expired and that title thereto has vested in Lessor. Notwithstanding the foregoing, the ownership and disposition of all personal property, trade fixtures and improvements installed by any subtenants of the Premises shall be as provided in their subleases.

**32. CAPTIONS AND PARTICULAR PROVISIONS:**

32.1. The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.

32.2. If any term or provision of this Lease or the applications thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

32.3. In construing or interpreting this Agreement, (a) singular pronouns and nouns shall be taken to mean and include the plural, and the plural shall be taken to mean and include the singular, and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require, (b) "shall" means mandatory and imperative, and (c) "including" means including without limitation.

**33. NON-DISCRIMINATION:** Lessee agrees that in the performance of this Lease that it will not discriminate by segregation or otherwise against any person or persons because of sex, race, creed, age, color or national origin.

**34. NOTICES:** Any and all notices which either Party desires or may be required to make or deliver to the other pursuant to this Lease shall be in writing and may be delivered, with all applicable delivery and postage charges prepaid, by: (a) personal delivery or messenger; (b) nationally recognized overnight courier service (such as FedEx); (c) certified mail or registered United States mail, return receipt requested; or (d) e-mail, if simultaneously sent by another means allowed hereunder, and sent to the applicable address set forth in Section 1.13 or to such other address as either party hereto may hereafter from time to time designate in writing. Notices shall be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof as evidenced by the records of the delivery or courier service or by the signed return receipt, as applicable. Notwithstanding the foregoing, notices sent by email shall be deemed given on the date received if and only if delivered prior to 6:00 p.m. Pacific Time and if simultaneously sent by another means allowed hereunder. Notices may be given by counsel to a party on behalf of such party. Lessee shall also provide information to Lessor regarding Lessee's billing address if it is different from the notice listed above.

**35. ATTORNEYS' FEES AND COURT COSTS:** If either of the parties hereto shall bring any action or proceeding against the other to enforce compliance with any of the terms of this Lease, the prevailing party in such action or proceeding shall be entitled to recover from the party prevailed against all reasonable attorneys' fees, together with all costs and expenses incurred in connection with such actions, including the reasonable cost of searching the records to determine the condition of title at the time suit is commenced. The "prevailing party" shall be determined by the ultimate arbiter of the dispute in accordance with Washington law.

**36. HEIRS AND ASSIGNS:** All rights, remedies and liabilities herein given to or imposed upon either of the parties hereto shall inure to the benefit of and bind the heirs, executors, administrators, successors and, so far as this Lease is assignable by the terms hereof, to the assigns of such parties. Nothing herein shall or is intended to confer upon any person, other than the parties and their respective successors and assigns, any rights, remedies, obligations, or liabilities.

**37. WAIVER:** Neither party shall be deemed to have waived any rights under this Lease unless the waiver is given in writing and signed by that party. No delay or omission on the part of either party in exercising any right shall operate as a waiver of the right or any other right. A waiver by either party of a provision of this Lease shall not prejudice or constitute a waiver of that party's right otherwise to demand strict compliance with that provision or any other provision of this Lease. No prior waiver by either party shall constitute a waiver of any of that party's rights or of any of the other party's obligations as to any future transactions.

**38. ENTIRE AGREEMENT:** This Lease contains the entire agreement between the parties and supersedes all prior agreements. Each party represents that no promises, representations or commitments have been made by the other as a basis for this agreement which have not been reduced to writing herein. No oral promises or representations shall be binding upon either party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Lease executed with all necessary legal formalities by City Council. This Lease shall be construed without regard to any presumption or other rule requiring construction against the party causing this Lease to be drafted.

**39. CONFIDENTIALITY:** To the extent permitted by applicable law, including without limitation Chapter 42.56 RCW and any subsequent revision and amendments thereto, the parties agree to keep confidential the terms and conditions of this Lease and any financial information, reports, studies or other documentation relating to Lessee, the Premises or the Project (collectively, “**Confidential Information**”) for a period of five (5) years following the expiration or other termination of this Lease. Notwithstanding the foregoing, Lessee shall have the right to make disclosures of Confidential Information to Lessee’s members, existing and potential capital partners and lenders, and Lessee’s and their respective employees, partners, members, permitted assignees, Affiliates and independent contractors, including but not limited to consultants, financial planners, outside counsel, and experts who (i) have a need to know such Confidential Information as necessary to evaluate the Project and perform their responsibilities under or in connection with this Lease or the development or financing of the Project, (ii) are made aware that Confidential Information must be kept confidential according to (and may not be distributed or used in accordance with) this Lease, and (iii) have an enforceable legal or fiduciary obligation to keep such Confidential Information confidential. Lessee shall be entitled to make disclosures of Confidential Information if and to the extent required under applicable law or pursuant to a court order. The parties acknowledge that Lessor is a municipal corporation subject to the Washington State Public Records Act and that Lessor may be obligated to disclose certain information that is the subject of a public records request. Notwithstanding the foregoing, if Lessor receives a request to disclose Confidential Information under the State of Washington’s Public Records Act, Lessor agrees, for a period of five (5) years following the expiration or other termination of this Lease, to give Lessee reasonable advance written notice so that Lessee may contest the disclosure or seek a protective order.

**40. BROKERS:** Lessor represents and warrants to Lessee, and Lessee represents and warrants to Lessor, that no broker or finder has been engaged by it, respectively, in connection with any of the transaction contemplated by this Lease, or to its knowledge is in any way connected with any of such transaction. In the event of any claim for consulting, brokers’ or finders’ fees or commissions in connection with the negotiation, execution or consummation of this Lease, then Lessee shall indemnify, hold harmless and defend Lessor from and against such claims if they shall be based upon any act, statement, or representation or agreement by Lessee, and Lessor shall indemnify, hold harmless, and defend Lessee from and against such claims if such claims shall be based upon any act, statement, representation or agreement made by Lessor.

**41. COUNTERPARTS:** This Lease may be signed in counterparts. All signatures taken together shall amount to the concurrence of all parties. In that regard, a photostatic or PDF copy of any signature or execution through a document signing program (such as DocuSign), shall have the same effect as the original.

**42. NO OPTION BY SUBMISSION OF LEASE DRAFT:** The submission of this Lease for examination does not constitute a reservation of or option for the Premises. This Lease shall become effective as a Lease only upon execution and delivery by both Lessor and Lessee.

**43. APPLICABLE LAW AND VENUE:** This Lease shall be governed by and construed in accordance with the laws of the State of Washington, and in the event of any litigation arising out of or relating to this Lease, the parties hereto stipulate and agree that the venue of any such action shall be laid in Clark County, Washington.

**44. RIGHT OF FIRST REFUSAL TO PURCHASE PREMISES:**

44.1. *Grant of Right of First Refusal.* Subject to Lessor’s compliance with the surplus property rules and procedures set forth in Vancouver City Code and except to the extent prohibited by law, Lessor does hereby grant unto Lessee a right of first refusal (the “**First Refusal Right**”) to purchase all or part of Lessor’s right, title and interest in and to the Premises, subject to and upon the terms and conditions set forth below.

44.1.1. During the Term of this Lease, in the event that the City of Vancouver decides to sell in part or all of its interest in the Premises and Lessor receives a bona fide written offer from a nonpublic third party to purchase the Premises, or any portion thereof, which Lessor desires to accept (“**Offer**”), Lessee may elect to purchase the Premises or the applicable portion thereof, at the price and on the terms and conditions (except for the time within which to close the transaction, if such time is shorter than that set forth below) as are contained in the Offer (“**Right of Purchase**”). Lessor shall give notice to Lessee, including delivery to Lessee of a true and exact copy of the Offer, and allow Lessee thirty (30) Days subsequent to Lessee’s receipt of such notice within which Lessee may elect to purchase the Premises, or the applicable portion thereof, from Lessor; and in the event Lessee so elects to purchase

the Premises, or the applicable portion thereof, by giving notice of such election to Lessor within such thirty (30) Day period, Lessor, upon approval by City Council if required pursuant to applicable law, shall sell the Premises, or the applicable portion thereof, to Lessee at the price and on the same terms and conditions as are contained in the Offer, except that Lessee shall not be required to close the transaction prior to ninety (90) Days following the expiration of the above 30-Day period. Notwithstanding anything to the contrary contained herein, the Right of Purchase shall not apply to a transfer of the Premises by Lessor to a governmental entity or a quasi-governmental entity (including without limitation, a housing authority, a public development authority or coalition of governmental entities such as PSERN or ARCH (collectively, a “**Governmental Entity**”)). In the event that Lessor elects to transfer the Premises to an entity other than a Governmental Entity, and such entity lacks substantial real estate operational or ownership experience, as reasonably determined by Lessee, Lessee shall have a right to purchase the Premises; provided that Lessee shall notify Lessor within ten (10) Business Days following Lessee’s receipt of Lessor’s transfer notice of Lessee’s election to potentially acquire the Premises. The parties shall then determine the FMV of the Premises (in accordance with Sections 5.7.2-5.7.8); provided that the timing set forth in Section 5.7.3 shall be modified as follows: (a) Lessor shall have thirty (30) days following Lessor’s receipt of Lessee’s notice of election to potentially acquire the Premises to provide Lessee with an appraisal of the Premises; (b) if Lessee does not agree with the FMV set forth in Lessor’s appraisal, Lessee shall have an additional thirty (30) days in which to provide Lessor with an appraisal which complies with the requirements set forth in Section 5.7.3.; (c) thereafter, Lessor and Lessee shall have an additional thirty (30) days period in which to mutually agree on the FMV of the Premises; and (d) in the event Lessor and Lessee are unable to agree on the FMV within such 90-day period, the FMV shall be determined as set forth 5.7.4-5.7.8. Within five (5) Business Days of the determination of the FMV of the Premises in accordance with Sections 5.7.2-5.7.8, Lessee shall notify Lessor in writing whether Lessee elects to acquire the Premises. Lessee’s failure to timely respond shall be deemed Lessee’s election not to acquire the Premises. If Lessee timely elects to acquire the Premises, then (a) Lessee shall deposit 5% of the purchase price as earnest money within three (3) Business Days of Lessee’s election to acquire the Premises, and (b) closing shall occur within ninety (90) days following Lessee’s written election to acquire the Premises.

44.1.2. Should Lessee, by written notice to Lessor, elect not to exercise the right to purchase, or should Lessee fail to notify Lessor of its election to purchase within the 30-Day period, then, in either of such events, Lessor shall be free to consummate the sale of the Premises, or the applicable portion thereof, to the third party submitting the Offer, provided that the sale is closed and on the same material terms and conditions as are contained in the Offer, without any substantive modification thereto, except that the closing thereof may occur on or before the thirtieth (30<sup>th</sup>) Day subsequent to the closing deadline set forth in the written offer, but provided that the closing must occur within twelve (12) months following the date of the Offer. Should any such sale be consummated, this First Refusal Right shall thereafter be of no further force and effect with respect to the Premises, or applicable portion thereof, subject to the sale. Should any such sale not be consummated within twelve (12) months following the date Lessor delivers to Lessee an Offer in accordance with the terms of this Section 44, Lessor shall, in the event Lessor subsequently receives any modified or new bona fide written offer from any third party to purchase the Premises, or any portion thereof, again follow the provisions of this Section requiring notice to Lessee and opportunity for Lessee to purchase the Premises.

44.1.3. Notwithstanding anything in this Section to the contrary, under no circumstances shall a “bona fide written offer from a third party” be deemed to include nor shall the First Refusal Right be triggered by any of the following, whether involving the Premises or a co-ownership interest in the Premises: (a) any gift or devise; (b) transfers to any entity controlling, controlled by or under common control with Lessor; (c) transfers which are deemed or considered transfers by operation of law; or (d) involuntary transfers, such as transfers in foreclosure or in condemnation.

44.2. Exercise of First Refusal Right. To exercise the First Refusal Right, Lessee must not be in Default under this Lease. Further, Lessee must deliver written notice of its election to exercise the First Refusal Right to Lessor as provided in this section. Time is of the essence of this First Refusal Right. Upon such notice being given, this First Refusal Right shall become a contract of purchase and sale subject to the terms contained in this section and the Parties shall enter into such purchase agreement and/or supplemental escrow instructions as may be reasonably necessary to effect the purchase (provided there shall be no proration of taxes and other items that pursuant to this Lease, Lessee is obligated to pay as the lessee hereunder). In the event the First Refusal Right has expired and terminated, any attempt to exercise the First Refusal Right shall be ineffective.

44.3. *Assignability.* The rights arising under this First Refusal Right may be assigned by Lessee only to the party or parties acquiring the Lessee's ground leasehold estate in the Premises or any portion thereof permitted under the terms of this Lease, and provided that (i) the assignee at the time of such assignment agrees in writing to be bound by all terms and conditions of the First Refusal Right which are applicable to Lessee, and that (ii) such rights may be assigned to and exercised by only one assignee at any one time with respect to a designated portion of the Premises or Improvements. Notwithstanding the above, Lessee may also assign its rights under this First Refusal Right to its Lender with respect to the Lessee's ground leasehold estate in the Premises.

44.4. *Broker and Broker's Commission.* Lessor and Lessee warrant and represent to the other that such Party has not employed any broker or agent in connection with this First Refusal Right. Lessee and Lessor covenant and agree, each to the other, to indemnify the other against any loss, liability, costs, demands, damages, actions, causes of action, or suits based upon or arising out of the alleged employment or use by the indemnifying party of any real estate broker or agent.

#### 45. REPRESENTATIONS AND WARRANTIES:

45.1. *By Lessor.* Lessor represents and warrants to Lessee as follows:

45.1.1. *Validity.* This Lease has been duly executed and delivered by Lessor and constitutes a valid, binding and enforceable obligation of Lessor. Lessor has the right, power and authority to enter into this Lease in accordance with the terms and satisfaction of the conditions of this Lease, to engage in the transaction contemplated in this Lease and to perform and observe the terms and provisions hereof.

45.1.2. *No Breach.* The execution and delivery of this Lease by Lessor and the performance by Lessor of its obligations under this Lease will not result in a breach of, or default under, any contract, agreement, commitment or other document or instrument to which Lessor is a party or by which Lessor or the Premises is bound, or a violation of any law, ordinance, regulation or rule of any governmental authority or any judgment, order or decree of any court or governmental authority that is binding on Lessor or the Premises.

45.1.3. *No Action.* There is no action, suit, proceeding, inquiry or investigation (including any eminent domain proceedings) pending, or to the actual knowledge of Lessor, threatened by or before any court or governmental authority against or affecting the Lessor or the Premises, except litigation in the ordinary course of business that, either individually or in the aggregate, will not have a material adverse effect upon Lessor or the Premises or the ability of Lessor to execute this Lease. Lessee expressly acknowledges that it is aware of the fact that the Washington Department of Transportation, in conjunction with a pending project to replace the Interstate Bridge, was considering a condemnation process at or near the Premises.

45.1.4. *Ownership.* The Lessor is the owner of the Premises and no other person has any ownership interest in the Premises or any right to acquire an ownership interest in the Premises.

45.1.5. *Possessory Interest.* Other than the Lessor, no other party has a possessory interest or right of occupancy in the Premises.

45.1.6. *OFAC.* Lessor is currently in compliance with and shall at all times during the term of this Lease remain in compliance with the regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental actions relating thereto.

45.1.7. *No Mortgage.* The Premises are not encumbered by a Mortgage.

45.2. *By Lessee.* Lessee represents and warrants to Lessor as follows:

45.2.1. **Validity.** This Lease has been duly executed and delivered by Lessee and constitutes a valid, binding and enforceable obligation of Lessee.

45.2.2. **No Breach.** The execution and delivery of this Lease by Lessee and the performance by Lessee of its obligations under this Lease will not result in a breach of or a default under any contract, agreement, commitment, or other document or instrument to which Lessee is a party or by which Lessee is bound, or a violation of any law, ordinance, regulation, or rule of any governmental authority or any judgment, order, or decree of any court or governmental authority that is binding on Lessee.

45.2.3. **No Action.** There is no action, suit, proceeding, inquiry, or investigation pending or, to the actual knowledge of Lessee, threatened by or before any court or governmental authority against or affecting Lessee, except litigation in the ordinary course of business that, either individually or in the aggregate, will not have a material adverse effect upon Lessee or the ability of Lessee to effect the execution of the ground lease.

45.2.4. **OFAC.** Lessee is currently in compliance with and shall at all times during the term of this Lease remain in compliance with the regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC’s Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental actions relating thereto.

**46. FORCE MAJEURE:** Any prevention, delay, or stoppage due to (i) insurrection; (ii) strikes; (iii) lock-outs; (iv) riots; (v) floods; (vi) earthquakes; (vii) fires; (viii) unusually severe weather; (ix) casualties; (x) acts of god; (xi) acts of the public enemy; (xii) acts of the other Party; (xiii) epidemics or pandemics; (xiv) quarantine restrictions; (xv) freight embargoes; (xvi) litigation (including suits filed by third parties concerning or arising out of this Agreement); (xvii) inability to secure or the rationing of necessary services, labor, materials, tools, or sources of energy; (xviii) condemnation; (s) acts or failure to act of any public or governmental agency or entity (other than City as a party to this Agreement); (xix) the discovery of cultural and archaeological resources at the Premises; or (xx) any other causes beyond the reasonable and foreseeable control or without the fault of the party obligated to perform shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage (“**Force Majeure Delay**”), except the obligations imposed with regard to Rent and Additional Charges to be paid by Lessee pursuant to this Lease.

**47. MEMORANDUM OF LEASE:** The parties shall record a memorandum of this Lease in the official records in the form attached hereto as Exhibit L upon the Term Commencement Date.

**48. QUIET ENJOYMENT:** So long as Lessee pays all Rent and performs all of its other obligations under this Lease in a timely manner, Lessee shall peaceably and quietly have, hold and enjoy the Premises, including access to the Premises from the nearest public right of way, without hindrance, ejection or molestation by Lessor or any person lawfully claiming through or under Lessor.

**49. COMPLETION GUARANTY.** As a material part of the consideration to Lessor for entering into this Lease, Lessee agrees that, with respect to the initial construction of the Improvements on the Premises, and prior to commencement of construction of the Improvements, Lessee shall cause the party provided such guaranty to Lessee’s construction lender to provide a construction completion guaranty in favor of Lessor, the form of which will mirror the form and substance of the completion guaranty provided to Lessee’s construction lender.

**50. NO RECOURSE TO LESSOR.** In no event shall any officer, directors, member, manager, shareholder, commissioner, partners, owner or employee of either Lessor or Lessee have any personal liability to Lessee under this Lease. This exculpation of personal liability shall be absolute and without any exception whatsoever.

*(Remainder of page intentionally left blank;  
signatures on following page.)*



IN WITNESS WHEREOF, the parties hereto have signed this Lease as of the Effective Date.

LESSOR:

LESSEE:

**CITY OF VANCOUVER**, a Washington municipal corporation

\_\_\_\_\_ **LLC**,  
a **Delaware** limited liability company

By: \_\_\_\_\_  
Eric Holmes  
City Manager

By: \_\_\_\_\_  
Patrick Gilligan  
Authorized Signatory

Approved as to form:

By: \_\_\_\_\_  
\_\_\_\_\_, City Attorney

(Notary Acknowledgements are located on the following pages.)

STATE OF WASHINGTON        )  
  ) ss.  
County of Clark                )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ are the persons who appeared before me, and said persons acknowledged that they signed this instrument, on oath stated that they were authorized to execute the instrument and acknowledged it as the CITY MANAGER for the CITY OF VANCOUVER to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public  
Printed Name: \_\_\_\_\_  
My Appointment Expires: \_\_\_\_\_

State of Oregon )  
County of Multnomah )

On \_\_\_\_\_, 202\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared Patrick Gilligan, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**EXHIBIT "A"**  
**DEPICTION OF PREMISES**

**EXHIBIT "B"**

**PREMISES LEGAL DESCRIPTION**

[to be attached for applicable Parcel when Lease is finalized]

## EXHIBIT “C”

### GLOSSARY OF TERMS

“**Additional Charges**” is defined in Section 6.

“**Adjacent Real Property**” is defined in Section 12.2.

“**Adjustment Date**” is defined in Section 1.4

“**Affiliate**” is defined in Section 20.7.1.

“**Archaeological Compliance Costs**” is defined in Section 12.16.

“**Baseline Assessment**” is defined in Section 12.2.

“**Base Monthly Rent**” is defined in Section 1.4.

“**Business Days**” means any day other than a Saturday, Sunday or legal holiday observed by the state of Washington.

“**Casualty**” is defined in Section 18.1.

“**Certificate of Completion**” is defined in Section 15.9.

“**Certificate of Occupancy**” is defined in Section 15.9.

“**City Council**” means the City of Vancouver’s elected, governing body vested with the authority of the council-managed form of government for a Washington first class city.

“**CMMP**” is defined in Section 12.2.

“**Commence Construction**” and “**Commencement of Construction**” are defined in Section 15.2.2.

“**Completion of Construction**” is defined in Section 15.2.2.

“**Confidential Information**” is defined in Section 39.

“**Construction Period**” shall mean the time period commencing on Commencement of Construction of the Initial Improvements at the Premises and continuing through the date Lessee has obtained a Certificate of Occupancy with respect thereto.

“**Contaminated Media**” is defined in Section 12.2.

“**Days**” shall mean calendar days unless otherwise noted. As used herein, the term “**Business Day**” shall mean a day that is not a Saturday, Sunday or legal holidays (as recognized by banks in the State of Washington). In the event that the date for the performance of any covenant or obligation under this Lease shall fall on a Saturday, Sunday or legal holiday, the date for performance thereof shall be extended to the next Business Day.

“**DDA**” is defined in Section 1.2 of this Lease.

“**Default**” is defined in Section 25 of this Lease.

“**Environmental Laws**” shall mean any federal, state, or local environmental health, safety, or similar laws, statutes, rules, regulations, or ordinances presently in effect or which may be promulgated in the future, as such laws, statutes, rules, regulations, and/or ordinances may be supplemented or amended from time to time, including, but not limited to, laws regarding the proper and lawful use, transportation, storage, treatment, generation, sale, and disposal of Hazardous Substances on or in any manner that affects the Premises or the surrounding properties.

“**Exit Assessment**” is defined in Section 12.14.

“**Fair Market Rent**” is defined in Section 5.7.1.

“**First Leasehold Mortgage**” and “**First Leasehold Mortgagee**” are defined in Section 21.2.

“**First Refusal Right**” is defined in Section 44.1.

“**First Transferee**” is defined in Section 21.3.6.10.

“**Fixtures**” is defined in Section 15.8.

“**Force Majeure Delay**” is defined in Section 46 of this Lease.

“**Foreclosure Purchaser**” is defined in Section 21.3.6.10.

“**Governmental Entity**” is defined in Section 44.1.1.

“**Hazardous Substances**” shall mean any hazardous, toxic, dangerous, or extremely hazardous substance, material, or waste, including marine pollutants, marine toxics, petroleum, and air toxics, which is or becomes regulated by the United State Government, the State of Washington, or any local governmental authority. The term includes, without limitation, any substance containing contaminants regulated as specified above or under Environmental Laws.

“**Improvements**” shall mean all changes, additions, improvements, or repairs to, all alterations, reconstructions, renewals, betterments, replacements, or removals of and all substitutions or replacements for any of the Premises, both interior and exterior, structural and non-structural, and ordinary and extraordinary. Improvements shall include, but are not limited to, the erection or removal of buildings, facilities or other improvements upon the Premises or the permanent surfacing of any outside areas. Notwithstanding the foregoing, it is expressly understood that “**Improvements**” shall not include maintenance and repairs to existing Improvements, landscaping, or replacements of existing Improvements using substantially the same materials and finishes.

“**Initial Improvements**” shall mean the base shell and core of buildings and related exterior improvements that Lessee will initially construct on the Premises by the Project Deadline (subject to any Force Majeure Delays). It is understood that “Initial Improvements” do not include interior improvements or finishes within office, retail or residential spaces.

“**Initial Term**” is defined in Section 1.3.

“**Interest Rate**” is defined in Section 5.4.

“**Lending Institution**” is defined in Section 21.2.

“**Lease**” shall mean this Ground Lease Agreement, as amended and supplemented from time to time as permitted hereby.

“**Leasehold Excise Tax**” shall mean any tax on the leasehold interest created by this Lease or on the Base Monthly Rent reserved under this Lease, including, without limitation, any leasehold excise taxes due and owing on taxable rent under RCW Chapter 82.29A, and any subsequent revision and amendments thereto. “**Taxable rent**” is defined by statute under RCW 82.29A.020(2), and shall include contract rent which is the amount of consideration due as payment for a leasehold interest, including the total of cash payments made to Lessor, or to any other party for the benefit of Lessor according to the requirements of this Lease or agreement, including, but not limited to, any payments

paid by a sublessee; expenditures for the protection of Lessor's interest when required by the terms of this Lease or agreement; and expenditures for improvements to the property to the extent that such improvements become the property of Lessor.

**"Leasehold Excise Tax Rate"** means the applicable rate of Leasehold Excise Tax, currently the rate set forth in Section 1.5.

**"Lessee"** is defined in the preamble of this Lease.

**"Lessee Indemnitee"** and **"Lessee Indemnitees"** is defined in Section 17.4.

**"Lessor"** is defined in the preamble of this Lease.

**"Lessor Delay"** shall mean any actual delay in Lessee's exercise of rights or performance of obligations under this Lease, including any failure of Lessee to meet deadlines set forth in this Lease or to achieve operation of the Premises for the Permitted Uses hereunder to the extent arising out of or resulting from (i) the failure of Lessor to approve or disapprove any plans or other matters which Lessor is required to approve under this Lease in accordance with the time periods referenced herein (or in the UDSG if applicable) as such time periods may be extended pursuant to the operative provision or document, or (ii) interference by Lessor, its agents, employees or contractors. Notwithstanding the foregoing, with respect only to a Lessor Delay arising out of interference by Lessor, its agents, employees or contractors as referenced in item (ii) above, it shall not be a Lessor Delay hereunder unless Lessee first notifies Lessor in writing of the event which constitutes such delay and Lessor fails to cure the actions, inactions or circumstances described in such notice within five (5) Days after delivery thereof. In such event, the Lessor Delay shall be deemed to have occurred commencing as of the date such notice is delivered to Lessor and ending as of the date such delay ends.

**"Lessor Indemnitee"** and **"Lessor Indemnitees"** are defined in Section 17.1.

**"Lessor's Interest"** is defined in Section 19.1 and Section 24.1.

**"Loss Payable Endorsement"** is defined in Section 21.3.5.

**"Maintenance Records"** is defined in Section 14.1.

**"Minimum Coverage Amount"** is defined in Section 1.11.

**"Mortgage"** is defined in Section 19.2.

**"Mortgagee"** is defined in Section 19.2.

**"OFAC"** is defined in Section 45.1.6 and Section 45.2.4.

**"Offer"** is defined in Section Error! Reference source not found.

**"Operating Costs"** is defined in Section 5.9.

**"Option"** and **"Option Term"** are defined in Section 4.2.

**"Permit Delays"** is defined in Section 1.2.

**"Permits"** means governmental permits and any other third party consents or approvals necessary for Lessee's use of the Premises and construction of the Project, including, without limitation, building permits, signage permits, and any conditional use permits.

**"Permitted Leasehold Mortgage"** and **"Permitted Leasehold Mortgagee"** are defined in Section 21.2.

“**Permitted Use**” is defined in Section 1.9 of this Lease.

“**Person**” shall mean any individual (natural person), partnership, corporation, trust, unincorporated association, syndicate, joint venture, or other organization or any government or any department or agency thereof or any other entity.

“**Phase I**” and “**Phase II**” are defined in Section 12.14.

“**Premises**” is defined in Section 2 and as shown and legally described on Exhibits “A” and “B”.

“**Premises Common Areas**” shall mean those portions of, and facilities within, the Premises, which are made open and accessible to the public by Lessee from time to time for the non-exclusive use of Lessee and its Subtenants and their respective agents, employees, customers, invitees, and licensees thereto.

“**Proceeds**” is defined in Section 18.2.

“**Prohibited Uses**” is defined in Section 10.1.

“**Project Deadline**” is defined in Section 1.2.

“**Property Manager**” is defined in Section 15.13.

“**Qualified Transferee**” is defined in Section 20.2(h).

“**RCW**” shall mean the Revised Code of Washington, as amended, supplemented, or otherwise modified from time to time.

“**RECs**” is defined in Section 12.14.

“**Related Parties**” shall mean, with respect to Lessor, its council members, officers, agents, representatives, and employees and, with respect to Lessee, its officers, directors, employees, shareholders, agents, and representatives.

“**Release**” shall be defined as provided in 42 U.S.C. § 9601 and RCW 70A.305.020, or successor legislation. In the event a conflict exists between the two definitions; the broader definition shall apply.

“**Relevant Experience**” is defined in Section 20.7.5.

“**Rent**” is defined in Section 1.4 and Section 5.1.

“**Rent Abatement Period**” is defined in Section 5.2.

“**Right of Purchase**” is defined in Section 44.1.1.

“**Sublease**” is defined in Section 20.6.1.

“**Subleased Space**” is defined in Section 20.6.1.

“**Subtenant**” is defined in Section 20.6.1.

“**Supplemental Baseline Assessment**” is defined in Section 12.2.

“**Surrender Condition**” is defined in Section 29.

“**Tax**” and “**Taxes**” are defined in Section 5.8.1.

“**Term**” shall mean the Initial Term together with any Option Term accruing pursuant to Section 4.2, as provided herein, unless the context otherwise requires.

“**Term Commencement Date**” is defined in Section 1.3.

“**Transfer Fee**” is defined in Section 20.5.

“**Unit**” is defined in Section 20.7.3.



---

**SECTION 5 – Pollution Prevention**

---

Will vehicles/equipment be fueled on-site? (list location, type and amount of fuel used): \_\_\_\_\_

Will vehicles/equipment have maintenance activities performed on-site? (list location and type of vehicle maintenance activities): \_\_\_\_\_

Describe any pollution control equipment or waste minimization processes you are currently involved in or plan to initiate on site: \_\_\_\_\_

\_\_\_\_\_

---

**SECTION 6 – Environmental Documents**

---

Name all known and/or potential environmental permits required to operate the facility, if any (e.g., NPDES, SWCAA, etc.): \_\_\_\_\_

---

**SECTION 7 – Miscellaneous Environmental**

---

List and explain any previous environmental violations issued to any other facilities Lessee operates: \_\_\_\_\_

-----  
This questionnaire completed by: \_\_\_\_\_

Position of person completing this questionnaire: \_\_\_\_\_

Date questionnaire was completed: \_\_\_\_\_

**EXHIBIT “E”**

**2024 CONTAMINATED MEDIA MANAGEMENT PLAN**

[to be attached]

**EXHIBIT "F"**  
**INTENTIONALLY DELETED**

**EXHIBIT "K"**

**FORM OF MEMORANDUM OF LEASE**

**Return Address:**

\_\_\_\_\_ LLC  
c/o LPC West, Inc.  
1201 Third Avenue, Floor 22  
Seattle, WA 98101  
Attention: Patrick Gilligan

<b>Document Title(s)</b> (or transactions contained therein):  Memorandum of Ground Lease
<b>Reference Number(s) of Documents assigned or released:</b> N/A Additional reference #'s on page _____ of document
<b>Grantor(s):</b>  City of Vancouver, a Washington municipal corporation
<b>Grantee(s):</b>  _____ LLC, a [Delaware] limited liability company
<b>Legal description (Abbreviated):</b>  <input checked="" type="checkbox"/> Full legal description is on <u>Exhibit A</u> attached to document.
<b>Assessor's Property Tax Parcel/Account Number(s):</b>

## MEMORANDUM OF GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE (this "Memorandum") is made and entered into as of \_\_\_\_\_, 202\_\_ (the "Effective Date") by and between CITY OF VANCOUVER, a Washington municipal corporation ("Lessor"), and \_\_\_\_\_ LLC, a [Delaware] limited liability company ("Lessee").

### RECITALS

A. Lessor and Lessee entered into that certain Ground Lease dated \_\_\_\_\_, 202\_\_ (as amended from time to time, the "Lease"). Lessor has leased to Lessee and Lessee has leased from Lessor certain [unimproved] real property located in the City of Vancouver, Clark County, Washington, as more particularly described on Exhibit A attached hereto (the "Premises"). All capitalized terms not defined hereunder shall have the meaning set forth in the Lease.

B. The parties desire to place their interests in the Lease as a matter of record.

NOW, THEREFORE, Lessor and Lessee confirm and agree as follows:

1. Term. Pursuant to the terms of the Lease, the Lease has an Initial Term of fifty (50) years, commencing as of the \_\_\_\_\_, 202\_\_, which date is the Term Commencement Date under the Lease and expiring on \_\_\_\_\_, \_\_\_\_ which is the expiration date of the Initial Term under the Lease.

2. Extension Options. Subject to and in accordance with the terms of the Lease, Lessee has two (2) options to extend the Initial Term of the Lease for a period of fifteen (15) years each.

3. Right of First Refusal. Lessee has a right of first refusal to purchase the Premises, as more fully provided in the Lease.

4. Miscellaneous. This Memorandum has been prepared to provide notice that the Premises is subject to the terms and conditions of the Lease, which terms are hereby incorporated into this Memorandum by this reference. In no event shall the terms of this Memorandum be deemed to modify, amend, limit, or otherwise affect the terms and conditions of the Lease. In the event of any inconsistency between the terms of this Memorandum and the terms of the Lease, the terms of the Lease shall control.

5. Counterparts. This Memorandum may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same document.

[SIGNATURE PAGES FOLLOW]

**IN WITNESS WHEREOF**, Lessor and Lessee have signed this Memorandum as of the day and year first above written.

LESSOR:

**CITY OF VANCOUVER**, a Washington municipal corporation

By: \_\_\_\_\_  
\_\_\_\_\_  
City Manager

Approved as to form:

By: \_\_\_\_\_  
\_\_\_\_\_, City Attorney

LESSEE:

\_\_\_\_\_ LLC,  
a [Delaware] limited liability company

By: \_\_\_\_\_  
Patrick Gilligan  
Authorized Signatory

**[ACKNOWLEDGEMENTS ON FOLLOWING PAGES]**

**LESSOR ACKNOWLEDGMENT**

STATE OF WASHINGTON        )  
  ) ss.  
County of Clark                )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the CITY MANAGER of the CITY OF VANCOUVER to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_

Notary Public  
Printed Name: \_\_\_\_\_  
My Appointment Expires: \_\_\_\_\_

**[LESSEE ACKNOWLEDGEMENT ON NEXT PAGE]**

**LESSEE ACKNOWLEDGEMENT**

State of Oregon )  
County of \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Oregon that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**EXHIBIT A**

**DESCRIPTION OF THE PREMISES**

## EXHIBIT "L"

### REQUIRED SUBLEASE PROVISIONS

All Subleases to be entered into by Lessee with respect to commercial and retail space within the Improvements shall:

- (a) be in the form of a written instrument;
- (b) permit use of the Subleased Space only for uses permitted under this Lease;
- (c) prohibit use of the Subleased Space for any Prohibited Uses (as defined in Section 10);
- (d) include an acknowledgment that the Sublease is subject and subordinate to the terms and conditions of this Lease, subject, however, to Lessor's agreement to recognize the Sublease in accordance with Section 20.6.2;
- (e) confirm each Subtenant's agreement to allow access by Lessor to Sublease Spaces for the purposes permitted under the Lease, including Sections 12.10 (Environmental Assessments) and 13.1 (Access Rights);
- (f) require the Subtenant to provide sufficient information regarding chemicals that will be managed in the portion of the Improvements to be subleased, prior to execution of the Sublease to allow Lessee to maintain a current and complete Tenant Environmental Questionnaire, consistent with Lessee's obligations to provide updated Tenant Environmental Questionnaires to Lessor under this Lease; and
- (g) notifies the Subtenant that Lessor is entitled to receive payments of Sublease rent directly from Subtenant in the event of a Default by Lessee under this Lease and, in the event Subtenant receives written notice from Lessor requesting such direct payment, directs the Subtenant to pay such Sublease rent as directed by Lessor, without any liability to Lessee or any obligation to confirm the validity of Lessor's request.
- (h) include the following provision, subject to reasonable revision:

"If by reason of a default on the part of [Lessee] as lessee in the performance of the terms of the provisions of the underlying ground lease [define, as needed, in Sublease], the underlying ground lease and the leasehold estate of [Lessee] as lessee thereunder are terminated by summary proceedings or otherwise in accordance with the terms of the underlying ground lease, the [Subtenant] will attorn to [Lessor] and recognize [Lessor] as lessor; provided, however, [Lessor] agrees that so long as the [Subtenant] is not in default of this Sublease, [Lessor] will provide quiet enjoyment to Subtenant and be bound by all the terms and conditions of this Sublease (but in no event shall [Lessor] be liable for actions taken by [Lessee] prior to [Lessor] coming into possession of the Premises)."

GROUND LEASE

Between

CITY OF VANCOUVER  
a Washington municipal corporation

as Lessor

And

\_\_\_\_\_ LLC  
a [Delaware] limited liability company

as Lessee

Execution Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

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[EXHIBIT and SCHEDULE list on following page.]

EXHIBIT A:	PREMISES DEPICTION
EXHIBIT B:	PREMISES LEGAL DESCRIPTION
EXHIBIT C:	GLOSSARY OF TERMS
EXHIBIT D:	FORM OF TENANT ENVIRONMENTAL QUESTIONNAIRE
EXHIBIT E:	2024 CONTAMINATED MEDIA MANAGEMENT PLAN
EXHIBIT F:	WATERFRONT DEVELOPMENT URBAN DESIGN STANDARDS AND GUIDELINES
EXHIBIT G:	SUSTAINABILITY OBJECTIVES
EXHIBIT H:	BUSINESS AND WORKFORCE DEVELOPMENT STRATEGY
EXHIBIT I:	DEPICTION OF OPEN SPACE
EXHIBIT J:	TREE CANOPY PLAN
EXHIBIT K:	REQUIRED SUBLEASE PROVISIONS
EXHIBIT L:	FORM OF MEMORANDUM OF LEASE

SCHEDULE 16.6: LESSOR SELF-INSURANCE PARAMETERS