

Vault

City of Brookings *Special* MEETING AGENDA

CITY COUNCIL/URBAN RENEWAL AGENCY

Monday, December 27, 2010, 7:00pm

City Hall Council Chambers, 898 Elk Drive, Brookings, OR 97415

CITY COUNCIL

A. Call to Order

B. Pledge of Allegiance

C. Roll Call

D. Public Hearing

1. Public hearing on sale of City Property located at 220 Wharf Street to the Urban Renewal Agency (Agency). [Pg. 4]
 - a. Written comments submitted by Steve Bismarck dated 12-9-10. [Pg. 6]

E. Action Item

1. Resolution approving the sale of City property to the Agency, amending the Urban Renewal Plan, and authorizing the Mayor to sign the Purchase and Sales agreement on behalf of the City. [Pg. 7]
 - a. Resolution 10-R-948. [Pg. 9]
 - b. Purchase and Sale Agreement. [Pg. 11]

F. Council Remarks

G. Adjournment

URBAN RENEWAL AGENCY

A. Call to Order

B. Roll Call

C. Action Items

1. Resolution approving the purchase of City property, amending the Urban Renewal Plan, and authorizing the Executive Director to sign the Purchase and Sale Agreement on behalf of the Agency. [Pg. 18]
 - a. Resolution 10-R-949. [Pg. 20]
 - b. Purchase and Sale Agreement. [Pg. 11 - *Council Agenda Item E.1.b*]
2. Resolution approving the sale of Agency property to Bi-Mart, and authorizing the Executive Director to sign the Purchase and Sales agreement on behalf of the Agency. [Pg. 22]
 - a. Resolution 10-R-950. [Pg. 24]
 - b. Purchase and Sale Agreement. [Pg. 25]

D. Agency Remarks

E. Adjournment

*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, at City Hall and at the local library. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 469-1102 if you have any questions regarding this notice.

December 2010

December 2010						
Su	Mo	Tu	We	Th	Fr	Sa
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12	13	14	8	9	10	11
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26	27	28	29	30	31	

January 2011						
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16	17	18	19	20	21	22
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30	31					

	Monday		Tuesday		Wednesday		Thursday		Friday	
	Nov 29	30	Dec 1	2	3	4	5	6	7	8
Nov 29 - Dec 3			10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting 7:00pm 9:00pm FH-PoliceResrvs	12:00pm 1:00pm Cc - Pubic Art 3:00pm 4:00pm CC - Staff (SC)						
Dec 6 - 10	6 11:00am 12:00pm CC - VIPS 4:00pm 6:00pm CC - Council Wkshp 7:00pm 9:00pm CC - Staff 7:00pm 10:00pm FH-FireTrng	7 7:00pm 10:00pm CC-Planning Comm	8 10:00am 11:00am FH-BRFD 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting 12:00pm 1:00pm CC - Stout Park 2:30pm 4:00pm CC-Storm Drain Precon 4:00pm 5:00pm CC - Traffic Safety Commit 5:00pm 8:00pm CC - Victims Impact Panel	9 9:00am 10:30am CC-Crm Stoppers 12:00pm 1:00pm CC-Public Art Committee (CC) 1:00pm 2:00pm CC - Court 3:00pm 5:00pm CC-URAC 7:00pm 9:00pm CC - Staff						
Dec 13 - 17	13 7:00pm 10:00pm FH-FireTrng 7:00pm 9:30pm CC-Council	14 10:00am 12:00pm CC - Staff	15 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting	16 11:30am 1:30pm CC-Staff 7:00pm 9:00pm CC-Parks & Rec Comm	17 10:30am 12:30pm CC - South Coast Friends					
Dec 20 - 24	20 11:00am 12:00pm CC-VIPS 7:00pm 10:00pm FH-FireTrng	21 7:00pm 9:00pm CC - PC (TENTATIVE)	22 10:00am 11:00am CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting 12:00pm 1:00pm CC - Stout Park 1:00pm 2:00pm CC - Staff 3:00pm 5:00pm CC - Staff	23	24 Christmas - Closed (closest workday to 12)					
Dec 27 - 31	27 7:00pm 7:30pm CC - Special Council Meeting 7:00pm 10:00pm FH-FireTrng	28	29 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting	30	31 New Years - Closed (closest workday to 1)					

January 2011

January 2011						
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February 2011						
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27	28					

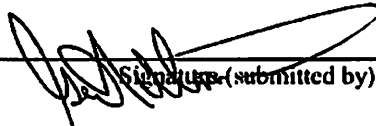
	January 2011					
	Monday	Tuesday	Wednesday	Thursday	Friday	
Jan 3 - 7	Jan 3 11:00am 12:00pm CC - VIPS 4:00pm 6:00pm CC - Council Wkshp 7:00pm 10:00pm FH-FireTrng	4 7:00pm 10:00pm CC-Planning Comm	5 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting 7:00pm 9:00pm FH-PoliceResrvs	6 12:00pm 1:00pm CC Public Art Committee 3:00pm 4:00pm CC - Staff (SC)	7 11:30am 1:30pm CC - Staff	
Jan 10 - 14	10 7:00pm 10:00pm FH-FireTrng 7:00pm 9:30pm CC-Council	11	12 10:00am 11:00am FH-BRFD 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting 12:00pm 1:00pm CC - Stout Park	13 9:00am 10:30am CC-Crm Stoppers 1:00pm 2:00pm CC - Court 3:00pm 5:00pm CC-URAC	14 12:00pm 1:00pm CC-Staff	
Jan 17 - 21	17 <u>Martin Luther King Day - City Hall Closed</u> 11:00am 12:00pm CC-VIPS 7:00pm 10:00pm FH-FireTrng	18 7:00pm 9:00pm Planning commission meet continuation of DDP-1-10	19 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting	20	21	
Jan 24 - 28	24 7:00pm 9:00pm CC-Council 7:00pm 10:00pm FH-FireTrng	25	26 10:00am 12:00pm CC- Site Plan 11:00am 12:00pm CC - Downtown Meeting 12:00pm 1:00pm CC - Stout Park	27 7:00pm 9:00pm CC-Parks & Rec Comm	28	
Jan 31 - Feb 4	31 7:00pm 10:00pm FH-FireTrng	Feb 1	2	3	4	

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 27, 2010

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Purchase and Sale Agreement, City property at 220 Wharf Street, Public Hearing

Recommended Motion:

This is a public hearing; no motion is required.

Financial Impact:

If the property is sold to the Urban Renewal Agency, the City would receive \$695,000 in consideration for the sale of this property.

Background/Discussion:

This matter is set for public hearing as required by State Law, which requires that the City Council provide an opportunity for any resident of the City to comment on the proposed sale of City property. If written comments are received during the meeting, the Council may wish to take a brief recess before moving forward with the agenda.

Bi-Mart has proposed the development of a 30,000 square foot retail store to be located on what are now three parcels located at the intersection of Railroad and Cove/Wharf Streets. Two of the parcels are under private ownership. The largest of the three parcels, 1.99 acres, is owned by the City of Brookings.

Management is proposing the sale of the City parcel to the Brookings Urban Renewal Agency (Agency), which would then resell the property to Bi-Mart under a development agreement. The City property was appraised at \$695,000 on August 25, 2010, by State Certified Appraiser Chris Fromme.

Under the terms of the proposed purchase and sale agreement, the Agency agrees to purchase the property at the appraised value and pay for the property in installments. The first installment would be \$615,000 which would be paid by the Agency upon close of escrow simultaneously with the close of escrow on the sale of the same property by the Agency to Bi-Mart. The balance of \$80,000 would be paid by the Agency to the City annually over a period of years, with the payment being equal to the amount of property tax increment received by the agency as a result of the increased property valuation when the Bi-Mart store is complete. The amount of increment is estimated at \$16,000 annually.

The City originally purchased this property in 1999 for \$305,000 and had intended to utilize the property for the construction of a public works maintenance yard, office and shop. The property is currently used for the storage of debris and surplus materials. These materials would be relocated to another site. The City is currently considering several alternate sites for the development of a public works maintenance yard.

Management recommended that the property be sold for private development in the economic development strategic plan adopted by the City Council in 2009. Management believes that

development of the property for private commercial purposes is a higher and better use, adding to the City's assessed value and creating jobs and economic activity. Development of this property may also spur redevelopment of adjoining properties, several of which are vacant or underutilized.

Attachment(s):

- a. Written comments submitted by Steve Bismarck dated 12-9-2010

RESOLUTION 10-R-47: PUBLIC COMMENT IN SUPPORT

To: Brookings City Council
From: Steve Bismarck, Brookings resident
Date: 12/09/2010

RE: Resolution 10-R-47, comment in favor

Dear Mayor Anderson and members of the Council,

While working on the *ad hoc* street standards committee last summer, it occurred to me that what Railroad Ave. really needs to spur its redevelopment into a pleasant and attractive commercial corridor is a major retail anchor that will draw customers and raise the bar for desirability of Railroad Ave. business frontage. Bi-Mart is an Oregon institution with a presence in nearly every Oregon community of any size. Its retail inventory is regionally selected for the needs of Pacific Northwest lifestyles. With a focus on outdoor activities, it is one that helps support economies based on coastal tourism. Its offerings are not duplicated by any other local retailer. It is not a "big-box" store. It is employee-owned and offers employee benefits that are all too scarce in the local job market.

In considering the degree to which the public interest would be served by selling the City-owned property, the Council should consider return on investment, adverse impacts that might result from loss of current use, how the public might benefit from the proposed use, and land-use goals that might be either served or compromised by such a sale.

All indicators are favorable for a sale, in my view. The sales price represents a sound conversion of a dormant asset. As the site has been sorely under-utilized for years, adverse impacts from the loss of the property are negligible and are overwhelmed by the benefits. The sale would serve Goal 9 interests not only by providing short-term construction jobs, but long-term retail jobs. It would also serve Goal 9 by bringing more retail dollars that Brookings residents currently spend elsewhere back to the local community. It is also likely to inspire customers from Del Norte County to spend their untaxed dollars in the Brookings area. I urge you to vote in favor of 10-R-47.

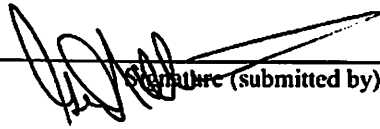
Steve Bismarck
270 Allen Ln.
Brookings, OR

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 27, 2010

Originating Dept: City Manager



Signature (submitted by)

City Manager Approval

Subject: Resolution approving the sale of City property to the Urban Renewal Agency and amending the Urban Renewal Plan.

Recommended Motion:

Motion to adopt Resolution 10-R-948, approving the sale of the City property located at 220 Wharf Street to the Urban Renewal Agency, amending the Urban Renewal Plan, and authorizing the Mayor to sign the Purchase and Sale Agreement.

Financial Impact:

The City would receive \$695,000 in consideration for the sale of this property.

Background/Discussion:

Bi-Mart has proposed the development of a 30,000 square foot retail store to be located on what are now three parcels located at the intersection of Railroad and Cove/Wharf Streets. Two of the parcels are under private ownership. The largest of the three parcels, 1.99 acres, is owned by the City of Brookings.

Management is proposing the sale of the City parcel to the Brookings Urban Renewal Agency (Agency), which would then resell the property to Bi-Mart under a development agreement. The City property was appraised at \$695,000 on August 25, 2010, by State Certified Appraiser Chris Fromme.

Under the terms of the proposed purchase and sale agreement, the Agency agrees to purchase the property at the appraised value and pay for the property in installments. The first installment would be \$615,000 which would be paid by the Agency upon close of escrow simultaneously with the close of escrow on the sale of the same property by the Agency to Bi-Mart. The balance of \$80,000 would be paid by the Agency to the City annually over a period of years, with the payment being equal to the amount of property tax increment revenue received by the Agency as a result of the increased property valuation when the Bi-Mart store is complete. The amount of increment is estimated at \$16,000 annually.

The City originally purchased this property in 1999 for \$305,000 and had intended to utilize the property for the construction of a public works maintenance yard, office and shop. The property is currently used for the storage of debris and surplus materials. These materials would be relocated to another site. The City is currently considering several alternate sites for the development of a public works maintenance yard.

Management recommended that the property be sold for private development in the economic development strategic plan adopted by the City Council in 2009. Management believes that development of the property for private commercial purposes is a higher and better use, adding to the City's assessed value and creating jobs and economic activity. Development of this

property may also spur redevelopment of adjoining properties, several of which are vacant or underutilized.

Resolution 10-R-948 authorizes the City to sell the subject property to the Brookings Urban Renewal Agency. The City of Brookings Urban Renewal Plan authorizes the Agency to acquire land for development by the public. Such acquisition requires a minor amendment to the Urban Renewal Plan by the City Council. Resolution 10-R-948 amends the plan accordingly.

Attachment(s):

- a. Resolution 10-R-948
- b. Purchase and Sale Agreement

**CITY OF BROOKINGS
STATE OF OREGON**

RESOLUTION 10-R-948

A RESOLUTION OF THE CITY OF BROOKINGS APPROVING THE SALE OF THE CITY PROPERTY LOCATED AT 220 WHARF STREET, TO THE URBAN RENEWAL AGENCY, MAKING A MINOR AMENDMENT TO THE URBAN RENEWAL PLAN, AND AUTHORIZING THE MAYOR TO SIGN THE PURCHASE AND SALE AGREEMENT.

WHEREAS, the City of Brookings (the "City") owns a certain parcel of land identified as Map No. 41-13-06DD TL 800, comprising 1.99 acres, and commonly referred to as 220 Wharf Street, Brookings, Oregon 97415 (the "Property");

WHEREAS, the Property is located within the City's Urban Renewal Area;

WHEREAS, the City Council made the requisite finding in Resolution 10-R-947 that the public interest will be furthered by the sale of the Property to the Brookings Urban Renewal Agency (the "Agency"); and

WHEREAS, the Agency desires to purchase the Property for the purpose of reselling the Property to a buyer willing to develop the Property in accordance with the City's Urban Renewal Plan (the "Plan"); and

WHEREAS, the City wishes to convey title of the Property to the Agency, pursuant to Section 800(B), of the Plan;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brookings that:

1. The City Council hereby approves a minor amendment to the Plan, as described in Exhibit A, attached, authorizing the purchase of the Property by the Agency for the purposes of Section 800(A)(1) of the Plan;
2. The sale price of the Property shall be Six Hundred Ninety Five Thousand Dollars (\$695,000.00.), the appraised value as of August 25, 2010;
3. The attached Purchase and Sale Agreement with the Agency is hereby approved; and
4. The Mayor is hereby authorized to sign said Purchase and Sale Agreement, as well as all other documents contemplated by the transaction, on behalf of the City of Brookings.

Passed by the City Council _____, 2010 and made effective the same date.

Attest:

Mayor Larry Anderson

City Recorder Joyce Heffington

**CITY OF BROOKINGS
URBAN RENEWAL PLAN
FIRST AMENDMENT
DECEMBER 27, 2010**

800.C. Properties to be acquired

1. The Brookings Urban Renewal Agency is authorized to purchase a 1.99 acre parcel of land owned by the City of Brookings at 220 Wharf Street for the purpose of reselling the property to Bi Mart Corporation for the development of a 30,000 square foot retail store. The Agency intends to enter into a development agreement with Bi Mart Corporation which would provide for construction and occupancy of the Bi Mart store by December 31, 2011.

**PURCHASE AND SALE AGREEMENT OF REAL PROPERTY
CITY OF BROOKINGS TO THE BROOKINGS URBAN RENEWAL AGENCY
220 WHARF STREET**

THIS AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (this "Agreement") is entered into by and between the City of Brookings, an Oregon municipal corporation ("CITY") and the Brookings Urban Renewal Agency, the duly designated urban renewal agency of the City of Brookings ("URA"). CITY and URA are referred to jointly in this Agreement as "Parties" and individually as a "Party."

RECITALS

1. URA is the duly authorized urban renewal agency of the City of Brookings, Oregon, and administers the CITY's urban renewal plan. CITY is owner of the real property more particularly described in Exhibit A (the "Property").
2. The Brookings Urban Renewal Plan was adopted by the Brookings City Council on August 12, 2002, by Ordinance No. 02-O-551, and made effective September 11, 2002.
3. The redevelopment of the Property in a manner consistent with the Brookings Urban Renewal Plan is pivotal to attracting the private investment necessary to area-wide revitalization.
4. CITY finds that URA's acquisition, sale, and the subsequent development of the Property, pursuant to this Agreement, will help achieve community and CITY goals for, among others, improving the function, condition and appearance of the development area, development of a project with sound economic principles that will be conducive to successful investment, protecting and enhancing the local economy, and increasing the number of local jobs available.
5. CITY further finds, as stated in Resolution No. 10-R-947, that the public interest will be furthered by this sale.

AGREEMENT

The Parties, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, covenant and agree as follows:

1. TERMS OF CONVEYANCE

1.1 Deed. CITY will convey the Property to URA pursuant to a Statutory Warranty Deed in substantially the same form attached hereto as Exhibit A.

1.2 Purchase Price. The purchase price for the Property is Six Hundred Ninety Five Thousand Dollars (\$695,000.00).

1.3 Title Report. Within fifteen (15) days after the date this Agreement is executed, CITY will deliver to URA a preliminary title report with respect to the Property, and copies of all exception documents (the "Title Report").

1.4 Closing Costs. URA will pay all closing costs, including the costs for recording necessary documents and escrow fees charged by the Escrow Agent.

2. ESCROW AND CLOSING

2.1 Escrow. Escrow will open as part of a double escrow upon the execution of a purchase and sale agreement between URA and a buyer.

2.2 Closing. CITY and URA will accomplish the purchase and sale of the Property (the "Closing") at such a place and time as may be mutually agreed upon.

A. Obligations of CITY at Closing. At the Closing of escrow, the Escrow Agent will deliver to URA a copy of the recorded statutory warrant deed.

B. Obligations of URA at Closing. On the Closing Date, URA will deliver to CITY the sum of Six Hundred Fifteen Thousand Dollars (\$615,000.00). The balance of Eighty Thousand Dollars (\$80,000.00) will be paid in annual installments equal to the tax increment that CITY receives from the Property.

C. Possession. CITY will transfer possession of the Property to URA upon the opening of escrow.

3. WARRANTIES AND REPRESENTATIONS

3.1 CITY's Warranties and Representations.

CITY represents that:

A. Except as has been disclosed to URA, to CITY's knowledge, there has been no generation, manufacture, refinement, transportation, treatment, storage, handling, disposal, transfer, release or production of Hazardous Substances, or other dangerous or toxic substances or solid wastes on the Property, or underground storage tanks existing on the Property, except in compliance with Environmental Laws currently in effect, CITY has not received notice of the release of any Hazardous Substances on the Property, and CITY has not placed any Hazardous Substances on the Property.

B. CITY has full power and authority to enter into and perform this Agreement in accordance with its terms, and all requisite action has been taken by CITY in connection with the execution of this Agreement and the transactions contemplated hereby.

- C. To the best of CITY's knowledge, there is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending or threatened, which may affect the Property, CITY's ability to perform its obligations under this Agreement, or URA's ability to develop the Project.
- D. To the best of CITY's knowledge, and except as disclosed in writing to URA, the Property is in compliance with all applicable laws, rules, regulations, ordinances and other governmental requirements ("Laws").
- E. CITY has not received or given any notice stating that the Property is in violation of any Laws.
- F. "CITY's knowledge" means the actual knowledge of the managerial and supervisory personnel of SELLER having responsibility for the supervision of the Property.

3.2 URA's Warranties and Representations.

URA represents that:

- A. URA has full power and authority to enter into and perform this Agreement in accordance with its terms, and URA has taken all requisite corporate action in connection with the execution of this Agreement and the transactions contemplated hereby.
- B. URA is acquiring the Property in order to make use of it in accordance with the City of Brookings Urban Renewal Plan. URA has a potential buyer for the Property that would like to build an open a retail business, the development of which will create local jobs and support the local economy.

4. GENERAL PROVISIONS

4.1 Governing Law. This Agreement is governed by the laws of the State of Oregon

4.2 Severability. If any clause, sentence or any other provision of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining provisions will remain in full force and effect to the fullest extent permitted by law.

4.3 Entire Agreement. This Agreement and the attachments hereto are the entire agreement between the Parties. There is no other oral or written agreement between the Parties with regard to this subject matter. The Parties are not entitled to rely on any prior oral or written representations made by either Party, implied or express, other than those contained in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by affixing the signatures of their authorized representatives below.

Executed this ____ day of _____, 2010, at Brookings, Oregon.

City of Brookings

By: _____
Larry Anderson, Mayor

ATTEST:

Joyce Heffington, City Recorder

Brookings Urban Renewal Agency

By: _____
Gary Milliman, Executive Director

ATTEST:

Joyce Heffington, City Recorder

APPROVED AS TO FORM:

Martha Rice, City Attorney

EXHIBIT A

STATUTORY WARRANTY DEED

After Recording Return to and
Tax Statements to be sent to:

Brookings Urban Renewal Agency
City of Brookings
898 Elk Drive
Brookings, OR 97415

STATUTORY WARRANTY DEED

KNOW ALL PEOPLE, that the CITY OF BROOKINGS, an Oregon municipal corporation ("City") does hereby convey and warrant to BROOKINGS URBAN RENEWAL AGENCY, as the duly designated Urban Renewal Agency of the City of Brookings, Oregon (which, together with any successor public agency designated by or pursuant to law, is herein called the "Agency"), and unto its successors and assigns, all the following described real property free of encumbrances except a specifically set forth herein, with the tenements, hereditaments, and appurtenances (herein called the "Property"), situated in the County of Curry and State of Oregon:

See Attachment 1 – Description of Real Property.

The conveyance is made pursuant to that certain Agreement for Purchase and Sale of Property located in Curry County, between City and Agency, dated _____, a copy of which was recorded on _____, as Doc. No. _____, Records of Curry County, Oregon (the "Purchase and Sale Agreement"). The Agency has given \$695,000.00 and other value for this conveyance.

The conveyance is subject to all easements, covenants, restrictions, conditions and encumbrances set forth on Attachment 1.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

By: _____
Larry Anderson, Mayor

This instrument was acknowledged before me on _____ (date), by LARRY ANDERSON, MAYOR of the CITY OF BROOKINGS, OREGON as the voluntary act and deed of the City Council.

My commission expires:

Attachment 1 – Description of Real Property

A tract of land in the Southeast quarter of the Southeast quarter of Section 6, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon:

Beginning at a point on the Westerly line of Cove Road in the City of Brookings, Oregon, which point is North 760.18 feet and West 431.02 feet from the Southeast corner of said Section 6;

Thence South 64°10' West 118.34 feet;

Thence North 54°11' West 78.25 feet;

Thence South 16°16' West 78.20 feet;

Thence North 68°05' West 90.0 feet to the Easterly line of Wharf Street;

Thence along said Easterly line South 16°16' West 237.92 feet;

Thence East 405.2 feet to the Westerly line of Cove Road;

Thence along said Westerly line North 12°44' West 283.7 feet to the point of beginning in Curry County, Oregon.

Subject to:

1. The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.
2. An Easement created by instrument, including the terms and provisions thereof,
In favor of: Coos-Curry Electric Cooperative, Inc.
For: Right of way for construction, operation and maintenance of underground electric transmission or distribution lines
Dated: November 4, 1997
Recorded: June 30, 1998
Inst. #: 1998-3367

in Curry County, Oregon.

CITY OF BROOKINGS

URBAN RENEWAL AGENCY

AGENDA REPORT

Meeting Date: December 27, 2010

Originating Dept: Executive Director



Signature (submitted by)

Executive Director Approval

Subject: Resolution 10-R-949, approving the purchase of City property and amending the Urban Renewal Plan.

Recommended Motion:

Motion to adopt Resolution 10-R-949, approving the purchase of the City property located at 220 Wharf Street, amending the Urban Renewal Plan and authorizing the Executive Director to sign the Purchase and Sale Agreement.

Financial Impact:

The Agency would agree to purchase the property for \$695,000, with an initial down payment of \$615,000 and the balance of \$80,000 to be paid in annual installments using the tax increment proceeds generated by the development of the property.

Background/Discussion:

Bi-Mart has proposed the development of a 30,000 square foot retail store to be located on what are now three parcels located at the intersection of Railroad and Cove/Wharf Streets. Two of the parcels are under private ownership. The largest of the three parcels, 1.99 acres, is owned by the City of Brookings.

A Purchase and Sale Agreement was scheduled for consideration by the City Council on December 27, 2010, immediately preceding the scheduled Urban Renewal Agency (Agency) meeting. Assuming the Agreement was approved at that meeting, the Agency must now approve the Agreement for this transaction to move forward.

Agency management is proposing the purchase of the City parcel which would be immediately resold to Bi-Mart under a development agreement. The City property was appraised at \$695,000 on August 25, 2010, by State Certified Appraiser Chris Fromme.

Under the terms of the proposed purchase and sale agreement, the Agency agrees to purchase the property at the appraised value and pay for the property in installments. The first installment would be \$615,000 which would be paid by the Agency upon close of escrow simultaneously with the close of escrow on the sale of the same property by the Agency to Bi-Mart. The balance of \$80,000 would be paid by the Agency to the City annually over a period of years, with the payment being equal to the amount of property tax increment received by the agency as a result of the increased property valuation when the Bi-Mart store is complete. The amount of increment revenue is estimated at \$16,000 annually.

This transaction is consistent with the City's Urban Renewal Plan, which authorizes the Agency to acquire land or buildings for public and private development purposes. The Plan requires approval of a minor amendment to authorize a specific acquisition.

This Resolution authorizes the Agency to acquire the subject property and amends the Urban Renewal Plan to include acquisition of the subject property.

Attachment(s):

- a. Resolution 10-R-949
- b. Purchase and Sale Agreement (see City Council Agenda Item E.1.b)

**BROOKINGS URBAN RENEWAL AGENCY
CITY OF BROOKINGS, STATE OF OREGON**

RESOLUTION 10-R-949

A RESOLUTION OF THE BROOKINGS URBAN RENEWAL AGENCY APPROVING THE PURCHASE OF THE CITY PROPERTY LOCATED AT 220 WHARF STREET, MAKING A MINOR AMENDMENT TO THE URBAN RENEWAL PLAN, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN THE PURCHASE AND SALE AGREEMENT.

WHEREAS, the City of Brookings (the "City") owns a certain parcel of land identified as Map No. 41-13-06DD TL 800, comprising 1.99 acres, and commonly referred to as 220 Wharf Street, Brookings, Oregon 97415 (the "Property");

WHEREAS, the Property is located within the City's Urban Renewal Area; and

WHEREAS, the acquisition of the Property is for the purposes provided under Section 800(B) of the City's Urban Renewal Plan (the "Plan"); and

WHEREAS, the Brookings Urban Renewal Agency (the "Agency") has a buyer for the Property that is willing to develop the Property in accordance with the Plan;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Brookings Urban Renewal Agency that:

1. The Agency hereby approves a minor amendment to the Plan, as described in Exhibit A, attached, authorizing the acquisition of the Property pursuant to Sections 100(C)(2) and 800(B) of the Plan;
2. The purchase price of the property shall be Six Hundred Ninety Five Thousand Dollars (\$695,000.00), the appraised value as of August 25, 2010;
3. The attached Purchase and Sale Agreement with the City is hereby approved; and
4. The Executive Director is hereby authorized to sign the attached Purchase and Sale Agreement, as well as all other documents contemplated by the transaction.

Passed by the Board of Directors on _____, 2010 and made effective the same date.

Attest:

Chair Larry Anderson

City Recorder Joyce Heffington

CITY OF BROOKINGS
URBAN RENEWAL PLAN
FISRT AMENDMENT
DECEMBER 27, 2010

800.C. Properties to be acquired

1. The Brookings Urban Renewal Agency is authorized to purchase a 1.99 acre parcel of land owned by the City of Brookings at 220 Wharf Street for the purpose of reselling the property to Bi Mart Corporation for the development of a 30,000 square foot retail store. The Agency intends to enter into a development agreement with Bi Mart Corporation which would provide for construction and occupancy of the Bi Mart store by December 31, 2011.

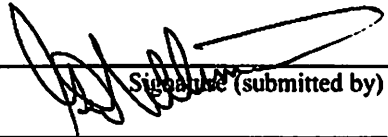
CITY OF BROOKINGS

URBAN RENEWAL AGENCY

AGENDA REPORT

Meeting Date: December 27, 2010

Originating Dept: Executive Director



Signature (submitted by)

Executive Director Approval

Subject: Resolution approving the sale of Agency property to the Bi-Mart Corporation.

Recommended Motion:

Motion to adopt Resolution 10-R-950, determining the fair reuse value of the former City property located at 220 Wharf Street and authorizing the Executive Director to sign the Purchase and Sale Agreement with Bi-Mart Corporation.

Financial Impact:

The Agency would sell the subject property to Bi-Mart Corporation for \$615,000 and purchase the subject property from the City for \$695,000. The Agency would "pass through" the net proceeds of the sales price to the City and pay the difference in annual installments as tax increment revenue from the project is received.

Background/Discussion:

Bi-Mart has proposed the development of a 30,000 square foot retail store on property now consisting of three parcels at the intersection of Railroad and Cove/Wharf Street.

According to Bi-Mart management, this store will employ approximately 60 people and will have an assessed valuation of approximately \$3.0 million upon completion.

Bi-Mart has reached a tentative purchase and sale agreement with the owners of two of the parcels needed for the development. The third parcel was owned by the City of Brookings and was proposed for sale to the Urban Renewal Agency (Agency) at a meeting scheduled to occur earlier this same date. Assuming the Purchase and Sale Agreement between the City and Agency has been approved, the Agency can now enter into a Purchase and Sale Agreement with Bi-Mart.

The City's Urban Renewal Plan (Plan) provides that the Agency is authorized to provide loans, or other forms of financial assistance, to property owners wishing to develop or redevelop land or buildings within the renewal area, or to persons desiring to acquire or lease buildings or land from the Agency. The Plan provides that the Agency may make this assistance available as it deems necessary to achieve the objectives of the Plan. The Plan provides that projects receiving Agency assistance may include "Assisting the construction or expansion of job-creating projects.

The Plan defines a "redeveloper" as meaning any individual or group acquiring property from the Agency or receiving financial assistance for the physical improvement of privately or publicly held structures and land." The Plan further provides as follows:

"Redevelopers within the Urban Renewal Area will be subject to controls and obligations imposed by the provisions of this Plan. Redevelopers also will be obligated by the following requirements:

- 1. The Redeveloper shall develop or redevelop property in accordance with the land-use provisions and other requirements specified in this Plan.*
- 2. The Renewal Agency may require the redeveloper to execute a development agreement acceptable to the Renewal Agency as a condition of any form of assistance by the Renewal Agency as a condition of any form of assistance by the Renewal Agency. The Redeveloper shall accept all conditions and agreements as may be required by the Renewal Agency.*
- 3. The Redeveloper shall submit all plans and specifications for construction of improvements on the land to the Renewal Agency or its designated agent, for review and approval prior to distribution to reviewing bodies as required by the City.*
- 4. The Redeveloper shall commence and complete the development of such property for the use provided in this Plan within a reasonable period of time as determined by the Agency."*

The proposed Purchase and Sale Agreement with Bi-Mart addresses these issues. The Agreement requires Bi-Mart to develop a 30,000 retail store on the property, and to occupy that store by December 31, 2011. The Agreement provides that the City must review and approve development plans. The Agreement provides that Bi-Mart will use its best efforts to employ local contractors and subcontractors in the construction of the store, and must demonstrate these efforts to the City before retaining non-local contractors. Failure to comply with the conditions

In this transaction, the Agency is, essentially, acting as a development facilitator by assisting in the assembly of a site for a project that will bring jobs and other economic benefits to the community. The adjacent property owner is also a "partner" in this transaction as they have negotiated a sales price below their expectations. The overall price that Bi-Mart is paying for the real property to acquire a site for this project is in excess of \$1.4 million which, according to Bi-Mart management, exceeds the highest price they have ever paid for a comparable site by more than \$200,000. Essentially, the \$615,000 sales price for the subject property is the value based upon the "market"...the amount that the developer can pay for the property and still achieve a project that will be economically sustainable.

Bi-Mart has agreed to participate further in the transaction by contributing \$15,000 toward the real estate commission.

The net difference between the cost of the property and the sales price, including the Bi-Mart commission contribution, is \$65,000, which will likely be recovered within four years from the additional property tax revenue received by the Agency as a result of the Bi-Mart development.

This transaction utilizes common urban renewal practices of site assembly, property write-down, and an agreement requiring developer performance to achieve the goals of job creation, long-term property value increases and development of underutilized property. The completion of this project will also likely spur additional economic redevelopment activities on similarly situated adjacent properties.

Attachment(s):

- a. Resolution 10-R-950
- b. Purchase and Sale Agreement with Bi-Mart.

**BROOKINGS URBAN RENEWAL AGENCY
CITY OF BROOKINGS, STATE OF OREGON**

RESOLUTION 10-R-950

A RESOLUTION OF THE BROOKINGS URBAN RENEWAL AGENCY DETERMINING THE FAIR REUSE VALUE OF THE FORMER CITY PROPERTY LOCATED AT 220 WHARF STREET, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SIGN THE PURCHASE AND SALE AGREEMENT.

WHEREAS, the Brookings Urban Renewal Agency (the "Agency") has agreed to purchase from the City of Brookings a certain parcel of land identified as Map No. 41-13-06DD TL 800, comprising 1.99 acres, and commonly referred to as 220 Wharf Street, Brookings, Oregon 97415 (the "Property"); and

WHEREAS, the Property is currently being utilized by the City for material storage; and

WHEREAS, the Property is located within the City's Urban Renewal Area; and

WHEREAS, the Agency has a buyer for the Property that is willing to develop the Property in accordance with the City's Urban Renewal Plan; and

WHEREAS, the development of this Property is anticipated to create not only local contractor work but also approximately 60 permanent local jobs;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Brookings Urban Renewal Agency that:

1. The fair reuse value of the Property is Six Hundred Fifteen Thousand Dollars (\$615,000.00);
2. The purchase and sale agreement for the Property ensures that the Property will be used in a manner consistent with the City's Urban Renewal Plan;
3. The public interest will be furthered by the sale and development of the Property as a retail establishment; and
4. The Executive Director is hereby authorized to sign the attached Purchase and Sale Agreement with Bi-Mart Corporation for the sale of the Property, as well as all other documents contemplated by the transaction.

Passed by the Board of Directors on _____, 2010 and made effective the same date.

Attest:

Chair Larry Anderson

City Recorder Joyce Heffington

AGREEMENT FOR PURCHASE AND SALE OF PROPERTY
220 Wharf Street, Brookings, Oregon

THIS AGREEMENT FOR PURCHASE AND SALE OF PROPERTY (this "Agreement") is entered into by and between the **BROOKINGS URBAN RENEWAL AGENCY**, the duly designated urban renewal agency of the City of Brookings, Oregon ("SELLER") and **BI-MART CORPORATION**, a California corporation doing business in Oregon under SOS Registry # 116402-81 with its principal office located in Eugene, Oregon ("BUYER"). SELLER and BUYER are referred to jointly in this Agreement as "Parties" and individually as a "Party."

RECITALS

1. SELLER is the duly authorized urban renewal agency of the City of Brookings, Oregon, and administers the City's urban renewal plan. SELLER is owner of the real property more particularly described in Exhibit A (the "Property").
2. The Brookings Urban Renewal Plan was adopted by the Brookings City Council on August 12, 2002, by Ordinance No. 02-O-551, and made effective September 11, 2002.
3. The redevelopment of the Property in a manner consistent with the Brookings Urban Renewal Plan is pivotal to attracting the private investment necessary to area-wide revitalization.
4. SELLER finds that BUYER's acquisition and development of the Property, pursuant to this Agreement, will help achieve the community and City goals for, among others, improving the function, condition and appearance of the development area, development of a project with sound economic principles that will be conducive to successful investment, protecting and enhancing the local economy, and increasing the number of local jobs available.
5. SELLER also finds that the fulfillment of this Agreement, and the intentions set forth herein, are in the vital and best interests of the City and the health, safety, and welfare of its residents, and are in accord with the public purposes and provisions of the applicable state laws and requirements under which the Property has been acquired.

AGREEMENT

This Agreement incorporates by this reference, the Recitals, the Definitions and all Exhibits hereto. The Parties, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, covenant and agree as follows:

1. DEFINITIONS

Words that are capitalized, and which are not the first word of a sentence, are defined terms. A defined term has the meaning given it when it is first defined in this Agreement. Some defined terms are first defined in the text of this Agreement, and some are first defined in Exhibit D, which is a glossary of all defined terms. Defined terms may be used together and the combined defined term has the meaning of the combined defined terms. A defined term that is a noun may

be used in its verb or adjective form and vice-versa. If there is any difference between the definition of a defined term in the text of this Agreement and the definition of that term in Exhibit D, the definition in the text controls. Defined terms may be used in the singular or the plural.

2. GENERAL TERMS OF CONVEYANCE

2.1 Conveyance of Property. Upon satisfaction of the Conditions Precedent to Closing in Section 2.6 hereof, SELLER will convey the Property to BUYER pursuant to a Statutory Warranty Deed in substantially the form attached hereto as Exhibit A including provisions required by Oregon Revised Statutes (ORS) 457.230. The Closing will occur in an escrow closing at the office of the Escrow Agent not later than the date set forth in the Schedule of Performance unless otherwise agreed by the Parties.

2.2 Purchase Price. The Purchase Price for the Property is Six Hundred Fifteen Thousand Dollars (\$615,000.00). The Purchase Price will be paid in cash as follows:

- A. The sum of Fifty Thousand Dollars (\$50,000.00) will be placed into escrow in accordance with Section 2.9 and will be applied to payment of the Purchase Price, or as otherwise required by Section 2.9 of this Agreement.
- B. The balance of the Purchase Price in the amount of Five Hundred Sixty Five Thousand Dollars (\$565,000.00) will be paid at Closing.

2.3 Parties to Bear Own Expenses. Except as otherwise specifically provided in this Agreement, SELLER and BUYER will pay all the costs, respective attorneys' fees and expenses incurred or to be incurred by them in negotiating and preparing this Agreement and in carrying out the transactions contemplated hereby.

2.4 Title Review.

- A. Within fifteen (15) days after the Effective Date, SELLER will deliver to BUYER a preliminary title report with respect to the Property, and copies of all exception documents (the "Title Report"). Within twenty (20) days following its receipt of the Title Report, BUYER may object to SELLER in writing to any exceptions to title. Within ten (10) days of BUYER's written notice to SELLER described in the preceding sentence, SELLER must notify Buyer in writing of its intention to remove or not remove the objectionable exceptions to title prior to Closing. If SELLER refuses to remove any such objected to exceptions, BUYER may terminate this Agreement or proceed to close subject to same. Any exceptions to which BUYER does not timely object in writing or otherwise accepts at Closing are the "Permitted Exceptions."
- B. SELLER covenants and agrees that it will not further encumber the Property (other than Permitted Exceptions). BUYER may, at any time prior to Closing, obtain an updated Title Report. Within twenty (20) days following its receipt of the updated

Title Report, BUYER may object to SELLER in writing to any exceptions to title. Within ten (10) days of BUYER's written notice to SELLER described in the preceding sentence, SELLER must notify BUYER in writing of its intention to remove or not remove the objectionable exceptions to title prior to Closing. If SELLER refuses to remove any such objected to exceptions, BUYER may terminate this Agreement or proceed to close subject to same. Any exceptions to which BUYER does not timely object in writing or otherwise accepts at Closing are the "Final Permitted Exceptions."

2.5 Title Insurance, Survey, Property Taxes and Closing Costs.

- A.** BUYER will pay the premium for an ALTA Owner's Policy of Title Insurance, issued by Escrow Agent, covering the Property insuring BUYER in the amount of the Purchase Price, all free and clear of encumbrances except the standard exceptions and the Final Permitted Exceptions.
- B.** The costs for recording a Memorandum of this Agreement, the Deed and any other documents required by BUYER to be recorded will be paid by BUYER.
- C.** BUYER and SELLER will each pay one-half of the escrow fees charged by Escrow Agent. BUYER will be obligated to pay all property taxes from and after the Closing Date. Any assessments, if any, on the Property will be prorated as of the Closing Date. All other Closing costs, if any, will be allocated in accordance with the customary practice in Curry County.

2.6 Conditions Precedent to Closing.

- A. Conditions.** BUYER and SELLER are not obligated to Close unless the following conditions are satisfied to the reasonable satisfaction of the benefited Party. The Party benefited by a particular condition may not unreasonably withhold, condition or delay acknowledgment that the condition has been satisfied. The Parties must act diligently and in good faith to satisfy conditions over which they have control or influence.

(1) BUYER: BUYER is not obligated to purchase the Property until, to BUYER's satisfaction:

- (1)** SELLER is able to transfer title to the Property to BUYER in accordance with and subject to the provisions of Paragraph 2.1.
- (2)** BUYER is able to secure a title insurance policy;
- (3)** No litigation is pending which prevents the SELLER or BUYER from performing their respective obligations under this Agreement;
- (4)** BUYER's inspection and approval of the Property and its feasibility for the use and development contemplated by BUYER. BUYER may take soil

samples, obtain environmental surveys, and obtain engineering studies of the Property. BUYER shall have 90 days from the date of this Agreement to complete its inspection and approval as provided herein.

(5) BUYER entering into a binding agreement to purchase the parcel adjoining the Property that is owned by the Walker Residual Trust.

(6) BUYER obtaining approval of the Final Construction Plans and Specifications referred to in Section 5.1 and obtaining all permits and approvals necessary to construct the Project.

(2) **SELLER:** SELLER is not obligated to sell the Property until, to SELLER's satisfaction:

(a) BUYER is duly organized, existing and has full authority to enter into and perform the obligations of this Agreement; and

(b) No litigation is pending which prevents SELLER or BUYER from performing their respective obligations under this Agreement.

B. Elections upon Non-Occurrence of Conditions. Except as provided below, if any condition in Section 2.6.A. is not fulfilled to the satisfaction of the benefited Party or Parties on the earlier of (1) the date designated for satisfaction of the condition, or (2) on the date scheduled for Closing, subject to any extension that may be granted pursuant to this Section 2.6.B., then such benefited Party or Parties may elect to:

(1) Terminate this Agreement, which termination will be effective sixty (60) days after the notice of termination is sent ("Termination Date") unless, before the sixty (60) day period ends, the other Party fulfills such condition or conditions to the reasonable satisfaction of the benefited Party or Parties; or

(2) Waive in writing the benefit of that condition precedent to its obligation to perform under this Agreement, and proceed in accordance with the terms hereof; or

(3) Extend the Termination Date by which the applicable condition may be satisfied, if the other Party agrees in writing to the extension.

C. Final Termination Date.

(1) If all of the conditions precedent under Section 2.6.A. have not been satisfied, waived or otherwise resolved pursuant to this Agreement on or before 100 days from the Effective Date, then this written Agreement will automatically terminate on next day ("Final Termination Date") unless the date for satisfying the unsatisfied condition(s) is extended by agreement of the Parties prior to the Final

Termination Date, or unless the failure of satisfaction of the conditions precedent is the result of an Unavoidable Delay, as described in Section 9.9.

- (2) If the Final Termination Date is extended for a period of Unavoidable Delay, the maximum period of unavoidable delay shall be no longer than 180 days.
- (3) If the Agreement is terminated for failure of satisfaction of the conditions precedent, then the obligations of the Parties to each other under this Agreement terminate and SELLER will cause the Escrow Agent to return the Escrowed Funds to BUYER as the exclusive remedy for such termination.

2.7 SELLER Representations and Warranties.

SELLER represents that:

- A. Except as has been disclosed to BUYER, to SELLER's knowledge, there has been no generation, manufacture, refinement, transportation, treatment, storage, handling, disposal, transfer, release or production of Hazardous Substances, or other dangerous or toxic substances or solid wastes on the Property, or underground storage tanks existing on the Property, except in compliance with Environmental Laws currently in effect, SELLER has not received notice of the release of any Hazardous Substances on the Property, and SELLER has not placed any Hazardous Substances on the Property.
- B. SELLER has full power and authority to enter into and perform this Agreement in accordance with its terms, and all requisite action has been taken by SELLER in connection with the execution of this Agreement and the transactions contemplated hereby.
- C. To the best of SELLER's knowledge, there is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending or threatened, which may affect the Property, SELLER's ability to perform its obligations under this Agreement, or BUYER's ability to develop the Project.
- D. To the best of SELLER's knowledge, and except as disclosed in writing to BUYER, the Property is in compliance with all applicable laws, rules, regulations, ordinances and other governmental requirements ("Laws").
- E. SELLER has not received or given any notice stating that the Property is in violation of any Laws.
- F. No representation, warranty or statement of SELLER in this Agreement or any of the exhibits attached contains any untrue statement of a material fact or omits a material fact necessary to make the statements of facts not misleading.

- G. As of the date hereof, there are no defaults by SELLER under this Agreement or events that with the passage of time would constitute a default of SELLER under this Agreement.
- H. "SELLER's knowledge" means the actual knowledge of the managerial and supervisory personnel of SELLER having responsibility for the supervision of the Property.
- I. The Project complies with ORS 457.230.

2.8 BUYER Representations and Warranties.

BUYER represents that:

- A. BUYER has full power and authority to enter into and perform this Agreement in accordance with its terms, and BUYER has taken all requisite corporate action in connection with the execution of this Agreement and the transactions contemplated hereby.
- B. No representation, warranty or statement of BUYER in this Agreement or any of the exhibits attached contains any untrue statement of a material fact or omits a material fact necessary to make the statements of facts contained herein not misleading.
- C. As of the date hereof there are no defaults by BUYER under this Agreement or events that with the passage of time would constitute a default of BUYER under this Agreement.
- D. BUYER enters into this Agreement without reliance upon any oral representation of any kind by SELLER, its employees, agents or consultants regarding any aspect of the site, the Project, its feasibility, financing or compliance with any governmental regulation.

2.9 Escrow and Closing. Within five (5) business days of the execution of this Agreement, BUYER will open and establish an escrow account with First American Title Company at its Brookings, Oregon office (the "Escrow Agent").

- A. **Earnest Money.** At the time of opening the escrow account, BUYER will deposit the sum of Fifty Thousand Dollars (\$50,000.00) as earnest money (the "Escrowed Funds") with Escrow Agent, which agrees to hold the sum in escrow for disposition according to this Section 2.9.

(1) Upon Closing, the Escrowed Funds will be credited toward the Purchase Price.

(2) If Closing does not occur for any reason other than the default by BUYER as provided in Section 9.1A below, then the Escrowed Funds will be delivered by Escrow Agent to BUYER.

(3) If Closing does not occur because of the default by BUYER as provided in Section 9.1A below, then the Escrowed Funds will be delivered by Escrow Agent to SELLER.

B. Closing. BUYER and SELLER will accomplish the purchase and sale of the Property (the "Closing") at such a place and time as may be mutually agreed upon.

(1) Obligations of Seller at Closing. At the Closing Escrow, the Escrow Agent will deliver to BUYER a copy of the recorded Statutory Warranty Deed.

(2) Obligations of Buyer at Closing. On the Closing Date, BUYER will deliver to SELLER the Purchase Price.

(3) Possession. SELLER will retain possession of the Property until Closing and will deliver possession to BUYER upon Closing.

3. PUBLIC IMPROVEMENTS AND INFRASTRUCTURE

3.1 Utility Services. BUYER is responsible for determining for its own benefit the extent to which public and private utilities are available to the Property and whether such utilities are of sufficient capacity to serve the Project, and whether such utilities located within the Property are acceptable or will be removed by BUYER. BUYER is also responsible for the construction or upgrade of any utilities necessary to the development of the Project that are not in place as of the Closing Date.

3.2 Subsurface, Surface and Building Conditions. Except for SELLER's representations and warranties set forth in this Agreement, the Property will be conveyed from SELLER to Buyer "AS IS." Except as otherwise specifically provided in this Agreement, SELLER makes no warranties or representations as to the suitability of the soil conditions or any other conditions of the Property or structures thereon for any improvements to be constructed by the BUYER, and except for representations and warranties otherwise provided by SELLER in this Agreement, BUYER warrants that it has not relied on any representations or warranties, made by SELLER as to the environmental condition of the Property, the suitability of the soil conditions or any of the conditions of the Property for any improvements to be constructed by the BUYER. Except for breach of SELLER representations and warranties expressly set forth in this Agreement, BUYER agrees that SELLER will not be liable for any loss, cost or damage which may be caused or incurred by Buyer by reason of any such soil or physical conditions on the Property. SELLER has allowed Buyer free access to SELLER's records with respect to conditions of the soils and will assist in obtaining the cooperation of other public and private agencies having such information.

3.3 Infrastructure Responsibilities. To the extent required by the City of Brookings in its regulatory capacity, approving the Project for development, and the issuance of permits for the Project, BUYER will design, construct, and finance with its own funds sidewalk and streetscape improvements along the street frontage of the Project, including all necessary street, curbs and gutter, and storm drain improvements necessary to bring the Property to City standards upon completion of the Project.

4. LOCAL CONTRACTORS

4.1 Definition of "Local." For purposes of this Section 4, "local" means any contractor whose principal place of business is within the 97415 zip code.

4.2 General Contractor. BUYER will use good faith efforts to utilize a local general contractor who is competitive and qualified to complete the Project. If BUYER is unable to employ a local general contractor, BUYER will submit to SELLER documentation of its good faith efforts and explain why it was unable hire a local general contractor.

4.3 Subcontractors. BUYER will use good faith efforts to utilize local subcontractors who are competitive and qualified for the particular work and will require its general contractor to do the same. Local subcontractors should be recruited and considered even if their bids are slightly higher than non-locals. If BUYER is unable to employ a local subcontractor for a particular sub-contract, BUYER will submit to SELLER documentation of its good faith efforts and explain why it was unable to hire a local subcontractor.

4.4 Good Faith Efforts. "Good faith efforts" to hire a local general or subcontractor on the Project may include, but are not limited to, the following:

- A. Advertising in local newspapers, trade magazines, and building associations;
- B. Holding local informational meetings for contractors to provide general information and encourage local submission of bids; and
- C. Mailing out Project information to local contractors and encouraging them to submit bids.

5. DEVELOPMENT OF PROJECT

5.1 Final Plans and Specifications.

- A. Upon Closing and according to the Schedule of Performance, BUYER will diligently pursue the design work necessary to construct the Project. BUYER (and not SELLER) is fully responsible for the design and development of the Project with the final design and development being consistent with the Brookings Urban Renewal Plan, City of Brookings design and development standards, and otherwise in full compliance with all applicable laws and regulations.

- B. BUYER will cause the Architect to prepare Final Construction Plans and Specifications which must be consistent in all material respects with the Brookings Urban Renewal Plan and the Brookings Municipal Code. BUYER must fully comply with all of the laws and regulations applicable within the urban renewal district in which the Project is located.**

5.2 Diligent Completion. Subject to the terms and conditions of this Agreement, BUYER will undertake and complete the Project through the construction of improvements on the Property and will comply with the Schedule of Performance, subject to Unavoidable Delay as provided in Section 9.9. BUYER agrees to keep SELLER informed of its progress with respect to development of the Project during construction, with periodic reports to be issued no less frequently than once a month until the Project is complete and SELLER issues its Certificate of Completion in accordance with Section 5.6 of this Agreement.

5.3 SELLER's Role in City Regulatory Review Process. SELLER will upon BUYER's request, assist BUYER in obtaining the City approvals necessary to commence construction and complete the Project as proposed in this Agreement. The Parties understand and agree that SELLER cannot guarantee such approvals, but SELLER will use its best efforts in working with the City and any other parties necessary to accomplish the Project.

5.4 Safety Matters; Indemnification. BUYER will do the following:

- A. Safety.** Use its best efforts to cause the general contractor and its subcontractors to comply with all safety laws and take such measures necessary (i) to protect their respective employees, (ii) to protect BUYER, its agents, contractors, subcontractors, licensees and invitees, (iii) to protect SELLER, its agents, employees, and invitees, and (iv) to protect the personal property and improvements of each, from injury or damage caused by or resulting from the performance of its construction.
- B. Liability Claims.** Indemnify and hold SELLER harmless from all claims, costs, expenses and liabilities arising from the death of, or accident, injury, loss or damage whatsoever caused to, any person or to the property of any person that occurs in the process of the BUYER's construction work, except for those caused by the negligence of SELLER or its employees, agents, or invitees or intentional misconduct of SELLER or its employees, agents, or invitees.

5.5 Inspection and Property Access.

- A. Prior to Closing.** Before Closing, SELLER will allow BUYER and BUYER's employees, agents and consultants to enter upon the Property, at all reasonable times whenever and to the extent necessary to carry out the purposes of this Agreement.
- B. After Closing.** After Closing, and until a Certificate of Completion is issued by SELLER in accordance with Section 5.6 of this Agreement, SELLER will be entitled to access to the Property, upon reasonable notice and at all reasonable times to inspect the progress of the development. SELLER agrees not to interfere with the work

occurring on the Property. In the event that SELLER or its representatives enter the Property pursuant to this Section 5.5.B., they will do so at their own risk and will comply with all construction site rules established by BUYER and BUYER's contractors. In addition, SELLER will not be entitled to indemnification for any losses, liability or injury arising in connection with entry to the Property pursuant to this Section 5.5.B., except to the extent the same arises out of the gross negligence or willful misconduct of BUYER.

5.6 Certificate of Completion Evidencing Compliance with ORS 457.230.

- A. Obligations of BUYER.** Pursuant to ORS 457.230, BUYER has proposed to use the Property in a manner designated in the Brookings Urban Renewal Plan and to complete the Project according to the Schedule of Performance. Upon the successful development of the Project and compliance with this Section 5.6, SELLER will issue to the BUYER a Certificate of Completion in accordance with the terms of this Section 5.6.
- B. When Buyer is Entitled to Certificate of Completion.** Upon substantial completion (as defined below) of the Project, and upon satisfaction of the other conditions of this Section 5.6, SELLER will furnish BUYER with a Certificate of Completion for the Project, substantially in the form attached hereto as Exhibit E. The Project will be deemed to be substantially complete when (1) the Project architect has issued a certificate of substantial completion and (2) the City has issued a certificate of occupancy for the building.
- C. Meaning and Effect of the Certificate of Completion.** The Certificate of Completion will provide for limitation of SELLER's remedies as expressly provided for therein.
- D. Form of Certificate of Completion; Procedure Where SELLER Refuses to Issue.** The Certificate of Completion will be in a form that can be recorded in the real property records of Curry County. At BUYER's request, the Certificate of Completion for the Project will state which terms and conditions of this Agreement are of no further force and effect. If the Escrow Agent, or another licensed title insurer in Curry County chosen by BUYER, finds that the Certificate of Completion is insufficient to limit SELLER's remedies as stated in the Certificate of Completion, then SELLER will also provide to BUYER, in recordable form, such instrument(s) as may be necessary to release the condition subsequent contained in the deed from SELLER to BUYER. If SELLER refuses or fails to provide a Certificate of Completion in accordance with this section, then SELLER, within fifteen (15) days after written request by BUYER for such Certificate of Completion, must provide BUYER with a written statement indicating in detail in what respects BUYER is in default and what measures or acts BUYER must take or perform to obtain such Certificate of Completion ("Statement"). Upon receipt of such detailed statement from SELLER, BUYER must cure any default in a manner responsive to the stated reasons for disapproval. SELLER's failure to furnish BUYER with such detailed

written statement within such fifteen (15) day period will be deemed SELLER's approval of BUYER's request for the Certificate of Completion pursuant to Section 5.6 and BUYER will be entitled to record a certificate to that effect in the public record. If BUYER disagrees with SELLER's Statement and the parties are unable to resolve such disagreement, then all of SELLER's rights under Section 9 shall be abated until the dispute is resolved by litigation or arbitration.

6. ENVIRONMENTAL MATTERS

6.1 Indemnification. BUYER must comply with all Environmental Laws with respect to its business and the operation of the Project from and after the date of Conveyance, except for matters caused in whole or in part by the act or failure to act of SELLER, its employees, agents, or invitees. BUYER will defend, indemnify and hold harmless SELLER, its successors and assigns, against any and all damages, claims, losses, liabilities and expenses, including, without limitation, reasonable legal, accounting, consulting, engineering and other expenses which may be imposed on or reasonably incurred by SELLER, its successors or assigns, or asserted against SELLER, its successors or assigns, by any other party or parties, including, without limitation, a governmental entity, arising out of or in connection with any violation of Environmental Laws by BUYER. BUYER's indemnity does not include indemnity for risks arising from conditions existing on the Property at Closing, except to the extent BUYER has caused the deterioration of such conditions. The indemnity set forth in this Section 6.1 will survive the issuance of the Certificate of Completion.

6.2 Contribution. The foregoing indemnity does not limit any rights of contribution that the Parties may have against others under applicable law or agreement. The indemnity is intended only as an allocation of responsibility between the Parties to this Agreement.

6.3 Environmental Report. BUYER acknowledges that it is BUYER's responsibility to obtain and pay for a Level One Environmental Report.

7. ASSIGNMENT AND TRANSFER PROVISIONS

7.1 No Assignment or Transfer. Except as otherwise specifically provided herein, or unless SELLER agrees in writing to such assignment, BUYER may not assign this Agreement or any interest therein, nor transfer the Property, until after the issuance of the Certificate of Completion by SELLER pursuant to Section 5.6. Any attempt to assign or transfer an interest in this Agreement, or to transfer the Property, or any portion thereof, will result in immediate termination of this Agreement, and will trigger the remedies of Section 9.2 or 9.4 as the case may be.

7.2 Permitted Assignment or Transfer. Notwithstanding Section 7.1, "assignment or transfer" does not mean any Mortgage(s) which BUYER may cause to attach exclusively to the Property in connection with the financing of the acquisition and development of the Project, with the total Mortgage amount not to exceed the amount necessary to fund such acquisition and development.

8. MORTGAGEE AND EQUITY INVESTOR PROTECTION

8.1 Effect of Revesting on Mortgages. Any reversion and revesting of the Property or any portion thereof to SELLER pursuant to this Agreement will always be subject to and limited by, and may not defeat, render invalid, or limit in any way any lien, Mortgage, or security interest encumbering the Property.

8.2 Mortgagee Not Obligated To Construct. Notwithstanding any of the provisions of this Agreement, except those which are covenants running with the Property, a Mortgagee or its designee for purposes of acquiring title at foreclosure will in no way be obligated by the provisions of this Agreement to construct or complete the improvements in the Property or to guarantee such construction or completion, provided, however that nothing in this Agreement may be deemed or construed to permit or authorize any such Mortgagee to devote the Property or any part thereof to any uses, or to construct any improvements thereon other than those uses or improvements provided or permitted in this Agreement.

8.3 Copy of Notice of Default to Mortgagee. If SELLER delivers any notice or demand to BUYER with respect to any breach of or default by BUYER in its obligations or covenants under this Agreement, SELLER will at the same time send a copy of such notice or demand to each Mortgagee at the last address provided by BUYER.

8.4 Mortgagee's Options to Cure Defaults. After any default in or breach of this Agreement by BUYER where BUYER fails to cure or remedy said default or breach, then each Mortgagee may, at its option, cure or remedy such breach or default within thirty (30) days after passage of the latest date for BUYER's cure of the default, and if permitted by its loan documents, to 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 may 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 SELLER in writing of its intention to complete the Project according to the Final Construction Plans and Specifications as approved by the appropriate agencies of the City. Any Mortgagee who properly completes the Project will be entitled to issuance of a Certificate of Completion, upon written request made to SELLER following the procedures set forth in Section 5.6 of this Agreement.

8.5 Amendments Requested by Mortgagee. SELLER will execute amendments to this Agreement or separate agreements to the extent reasonably requested by a Mortgagee proposing to make a loan to BUYER secured by a security interest in all or any part of the Property and/or the Project, provided that such proposed amendments or other agreements do not materially or adversely affect the rights of SELLER or its interest in the Property.

9. DEFAULT; REMEDIES

9.1 Default and Cure.

- A. Default by Buyer.** A default will occur if BUYER breaches any material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within sixty (60) days after BUYER receives written notice from SELLER specifying the breach. BUYER's failure to act diligently and in good faith to satisfy conditions over which it has control or influence is a breach. In the case of a breach which cannot with due diligence be cured with a period of sixty (60) days, a default will occur if BUYER does not commence the cure of the breach within thirty (30) days after BUYER receives written notice from SELLER and thereafter diligently prosecute to completion such cure. A Default will occur if BUYER makes any assignment for the benefit of creditors, or is adjudicated as bankrupt, or has a receiver, trustee or creditor's committee appointed over it. BUYER will not be in default hereunder for failure to pay any tax, assessment, lien or other charge if BUYER is in good faith contesting the same and, if necessary to avoid foreclosure, has furnished an appropriate bond or other undertaking to assure payment in the event BUYER's contest is unsuccessful.
- B. Default by SELLER.** A default will occur if SELLER breaches any material provision of this Agreement including, without limitation, SELLER's failure to adhere to the Schedule of Performance for any element of the Schedule of Performance which is in the control of SELLER, whether by action or inaction, and such breach continues and is not remedied within sixty (60) days after SELLER receives written notice from BUYER specifying the breach or, in the case of a breach which cannot with due diligence be cured within a period of sixty (60) days, if SELLER does not commence the cure of the breach within thirty (30) days and thereafter diligently prosecute to completion such cure.

9.2 SELLER's Pre-Conveyance Remedies.

- A.** If BUYER defaults in any material term of this Agreement before the sale of the Property to BUYER is closed, SELLER's sole and exclusive remedy shall be to terminate this Agreement by written notice to BUYER and receive from the Escrow Agent the Escrowed Funds and any interest earned thereon as liquidated damages described in Section 9.2.C. below.
- B.** If SELLER terminates this Agreement as provided in Section 9.2.A., then BUYER must deliver to SELLER within thirty (30) days after such termination, copies of all Property market research, design documents, engineering documents, proformas and financial projections prepared for BUYER by third parties, which BUYER is authorized to release, and design and construction contracts which SELLER may use in any manner that SELLER deems appropriate with the consent of any party having approval rights thereunder.
- C.** The Parties agree that that the extent of monetary damages incurred by SELLER in the case of BUYER's default prior to the Closing is difficult to ascertain. However, the loss of direct jobs anticipated from the Project, the delay or loss of increased property tax values to support other SELLER projects, and the costs of SELLER re-

offering and renegotiating a sale of the Property are direct damages to SELLER. Therefore, as liquidated damages, and not as a penalty, SELLER will retain the Escrowed Funds.

9.3 Restoration. If, prior to acquiring the Property, BUYER performs any construction activities on the Property and BUYER does not acquire the Property for any reason, BUYER agrees, upon SELLER's request, to restore the Property to substantially the condition that existed prior to the time that BUYER performed any activities thereon. SELLER may elect to require that any improvements BUYER has installed on the Property remain on the Property.

9.4 SELLER's Post-Conveyance Remedies -- Failure to Use the Property in Compliance with Agreement. If after Closing and before issuance of the Certificate of Completion, BUYER fails to use the Property in compliance with the Scope of Development and the Schedule of Performance, then SELLER may demand in writing that BUYER cure such default within sixty (60) days. If BUYER does not cure the default within the sixty (60) day period (or in the case that such default is not curable within sixty (60) days, if BUYER has not commenced and begun diligently pursuing such cure to SELLER's satisfaction within thirty (30) days), then, such action or inaction will create in SELLER the following remedies, which remedies will be exclusive of any other granted to SELLER:

- A. Subject to the rights of Mortgagees and other parties holding interests in the Project, the right to re-enter and take possession of the Project, and to terminate (and revest in SELLER) the estate conveyed by the Deed to the Property and to resell the Property pursuant to Section 9.5 hereof, it being the intent of this provision together with other provisions of this Agreement, that the conveyance of the Property to BUYER will be made upon, and that the Deed to the Property will provide for, a condition subsequent to the effect that in the event of default by BUYER and failure of BUYER to remedy, end or abrogate such default, within the period and in the manner stated, then SELLER, at its option, may upon sixty (60) days written notice (hereinafter, "Notice of Termination") to BUYER and the Escrow Agent declare a termination in favor of SELLER of the title, and of all the rights and interest in the Property, and all the title and rights and interest in the Property conveyed to BUYER and any assigns or successors in interest will be reconveyed to SELLER by Quitclaim Deed, pursuant to the Escrow Instructions in Exhibit G.
- B. BUYER must provide SELLER with any work product produced by any third parties for BUYER, including copies of all Property market research, design documents, engineering documents, proformas and financial projections prepared for BUYER, which BUYER is authorized to release, and design and construction contracts which SELLER may use in any manner that SELLER deems appropriate with the consent of any party having approval rights thereunder.

9.5 SELLER Resale. If title to the Property revests in SELLER in accordance with the provisions of Section 9.4 of this Agreement, SELLER may, at its option, bring the improvements to a state of completion deemed by SELLER as reasonably necessary to protect it from the elements or other dangers, and will, pursuant to its responsibilities under Oregon Revised

Statutes, Chapter 457, use its best efforts consistent with prudent business practices and generally in accordance with the terms of this Agreement to resell at a reasonable price, the Property (subject to such mortgage liens and leasehold interests as hereinbefore set forth) as soon and in such a manner as SELLER may find feasible and consistent with the objectives of such laws, to a qualified and responsible party or parties (as determined by SELLER in its sole discretion) who will assume the obligation of making or completing the improvements or such other improvements instead as are satisfactory to SELLER. Upon such resale, the proceeds thereof will be applied as follows:

- A. SELLER Reimbursement.** First, to SELLER on its own behalf to reimburse SELLER for all costs and expenses reasonably incurred by it including, but not limited to: salaries of personnel in connection with the recapture, management and resale of the Project; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Project at the time of revesting of title thereto in SELLER or to discharge or prevent from attaching or being made; any subsequent encumbrances or liens due to obligations, defaults, or acts of BUYER, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of BUYER's improvements or any portion thereof on the Project; any amounts owed to the City as lease or license fees, and any amounts otherwise owing SELLER by BUYER and its successor or transferee;
- B. BUYER Reimbursement.** Second, to reimburse BUYER, its successor or transferee, up to the amount equal to, the sum of (a) the Purchase Price made prior to revesting in SELLER, and (b) SELLER-approved development costs incurred by it in making any of the improvements on the Project or part thereof, less any gains or income withdrawn or made as to the Project; and
- C. Balance to SELLER.** Third, any balance remaining after any reimbursements will be retained by SELLER.

9.6 BUYER's Pre-Conveyance Remedies. If SELLER defaults as to any material term of this Agreement prior to Closing, BUYER may, at its option: (i) terminate this Agreement by written notice to SELLER, without waiving any cause of action BUYER may have against SELLER and instruct the Escrow Agent to pay the Escrowed Funds and any interest earned thereon to BUYER and (ii) seek monetary damages against SELLER; or (iii) specifically enforce the obligations of SELLER under this Agreement.

9.7 BUYER's Post-Conveyance Remedies. In the event of SELLER's material default after SELLER conveys the Property to Buyer, BUYER may specifically enforce the obligations of SELLER under this Agreement, or seek monetary damages against SELLER.

9.8 Nonexclusive Remedies. The rights and remedies provided by this Agreement are not exclusive, except where otherwise indicated, and are in addition to any and all rights otherwise available at law or in equity. The exercise by either Party of one or more of such remedies will not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or of any of its remedies for any other default by the other Party, including, without

limitation, the right to compel specific performance. Any limitation of remedies set forth herein will not limit or affect the obligations of a Party under any contractual indemnities set forth herein.

9.9 Unavoidable Delay.

- A.** Neither a Party nor a Party's successor in interest will be considered in breach of or in default with respect to any obligation created hereunder or progress in respect thereto if the delay in performance of such obligations (the "Unavoidable Delay") is due to causes that are unforeseeable, beyond its control, and without its fault or negligence, including but not limited to acts of God, acts of the public enemy, acts of the government, acts of the other Party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquake, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation involving a Party or others relating to zoning or other governmental action or inaction pertaining to the Project, extraordinary delay in the issuance of necessary permits for the Project, malicious mischief, condemnation action, delays of litigation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar events and/or occurrences beyond the control of such Party.
- B.** It is the purpose and intent of this provision that, in the event of the occurrence of any such Unavoidable Delay, the time or times for performance of the obligations of SELLER or BUYER as the case may be, will be extended for the period of the Unavoidable Delay; provided, however, that the Party seeking the benefit of this Section must, within thirty (30) days after the Party becomes aware of the causes of any such Unavoidable Delay, notify the other Party in writing of the cause or causes of the delay and the estimated time of correction.
- C.** Notwithstanding any other provision of this Agreement, the time for Parties' performance may not be extended by one or more events of Unavoidable Delay for a cumulative period greater than 180 days.

10. MISCELLANEOUS PROVISIONS

10.1 Compliance with Laws; Discrimination. BUYER will comply with all applicable laws and, for itself and its successor and assigns, agrees that during any construction on the Property BUYER will not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, sexual orientation or national origin.

10.2 Damage and Destruction. In the event of the destruction of or damage to all or a portion of the Property from any cause prior to Closing, BUYER may elect to terminate this Agreement by the delivery of notice to SELLER within fifteen (15) business days thereafter. If BUYER does not so notify SELLER of its intent to terminate the Agreement, BUYER will purchase the Property "AS IS."

10.3 Notice. Any notice or communication under this Agreement by either Party to the other will be deemed given and delivered (a) seventy-two (72) hours after being deposited with the U.S. Postal Service, sent registered or certified, postage prepaid, or (b) when received if personally delivered, and:

A. In the case of a notice or communication to BUYER, addressed as follows:

Bi-Mart Corporation
Attn: John Harris, President
PO Box 2310
Eugene, OR 97402

B. In the case of a notice or communication to SELLER, addressed as follows:

Gary Milliman, Executive Director
City of Brookings URA
898 Elk Drive
Brookings, OR 97415

or addressed in such other way in respect to either Party as that Party may, from time to time, designate in writing and serve as provided in this Section 10.3. Notice given in any other manner will be effective upon receipt by the Party for whom the same is intended.

10.4 Merger. None of the provisions of this Agreement are intended to be merged by reason of any Deed transferring title to the Property from SELLER to BUYER or any successor in interest, and any such Deed will not be deemed to affect or impair the provisions and covenants of this Agreement, but will be deemed made pursuant to this Agreement.

10.5 Headings. Titles of the sections of this Agreement are inserted for convenience of reference only and will be disregarded in construing or interpreting any of its provisions.

10.6 Waivers. Except as otherwise expressly provided in this Agreement, 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 will be considered a waiver of any other rights of the Party making the waiver. No waiver by SELLER or BUYER of any provision of this Agreement or any breach thereof may be of any force or effect unless in writing; and no such waiver may be construed to be a continuing waiver.

10.7 Attorneys' Fees. If a suit, action, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party will be entitled to recover from the losing party its reasonable attorneys', paralegals', accountants', and other experts' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision covers costs and

attorney fees related to or with respect to proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

10.8 Governing Law. This Agreement is governed by the laws of the State of Oregon.

10.9 Calculation of Time. All periods of time referred to herein include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or legal holiday, the period will be extended to include the next day which is not a Saturday, Sunday or legal holiday.

10.10 Legal Purpose. BUYER agrees that it will use the Property solely for lawful purposes.

10.11 Severability. If any clause, sentence or any other provision of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining provisions will remain in full force and effect to the fullest extent permitted by law.

10.12 Entire Agreement. This Agreement and the attachments hereto are the entire agreement between the Parties. There is no other oral or written agreement between the Parties with regard to this subject matter. The Parties are not entitled to rely on any prior oral or written representations made by either Party, implied or express, other than those contained in this Agreement.

10.13 Modifications. Any modifications to this Agreement must be made in writing and signed by both Parties. The Parties recognize that circumstances may change and that it may be in the interest of both Parties that Agreement be amended from time to time. For this reason, each of the Parties will consider changes that may be proposed by the other during the term of this Agreement and will negotiate in good faith to agree to modifications as reasonably necessary. The Executive Director of the City's Urban Renewal Agency may approve minor modifications to this Agreement without SELLER Board approval. "Minor Modifications" include, but are not necessarily limited to:

- A. Changes in the Schedule of Performance when deemed warranted by the BUYER's Project Manager which do not exceed sixty (60) days, excluding a change in the Final Termination Date; and
- B. Corrections of errors, clarifications, or minor modifications that do not change the substantive content of the Agreement.
- C. All modifications to the Agreement (other than Minor Modifications) must be approved by the SELLER's Board.

10.14 Successors and Assigns. Subject to the provisions of Section 7 of this Agreement, the benefits conferred by this Agreement, and the obligations assumed thereunder, will inure to the benefit of and bind the successors and assigns of the Parties.

10.15 Place of Enforcement. Any action or suit to enforce or construe any provision of this Agreement by any Party must be brought in the Circuit Court of the State of Oregon for Curry County, or the United States District Court for the District of Oregon in Medford, Oregon.

10.16 No Partnership. Nothing contained in this Agreement or any acts of the Parties hereby may be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between any of the Parties.

10.17 Non-waiver of Government Rights. Subject to the terms and conditions of this Agreement, by making this Agreement and delivery of the deeds, SELLER is specifically not obligating itself, the City, or any other Agency with respect to any discretionary action relating to development or operation of the improvements to be constructed on the Property, including, but not limited to, rezoning, variances, environmental clearances or any other governmental approvals which are or may be required, except as expressly set forth herein.

10.18 Approval by URA Executive Director. Unless specified to the contrary elsewhere in this Agreement as to a particular consent or approval, whenever consent or approval by SELLER is required under the terms of this Agreement, all such consents or approvals must be given in writing from the Executive Director of the City's Urban Renewal Agency, or from such other staff as the SELLER's Board has designated.

10.19 Brokers. SELLER has agreed to pay PacWest Group, LLC a commission of \$10,000 and BUYER has agreed to pay PacWest Group, LLC a commission of \$15,000. Each Party agrees to pay any other commission or finder's fees that may be due on account of this transaction to any broker or finder employed by it and to indemnify the other Party against any claims for such commissions or fees.

10.20 Recording of Memorandum of Agreement. SELLER will provide for recording a Memorandum of this Agreement within thirty (30) days of the Effective Date. The form of the Memorandum of Agreement is attached as Exhibit F to this Agreement. When SELLER issues to BUYER a Certificate of Completion or if the Agreement is terminated, the Parties will cooperate to promptly record an Amended Memorandum of Agreement to reflect the surviving covenants of this Agreement.

10.21 Time of the Essence. Time is of the essence in this Agreement and failure to comply with this provision constitutes a material breach of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement by affixing the signatures of their authorized representatives below.

Executed on this ____ day of _____, _____, at Brookings, Oregon.

SELLER: Brookings Urban Renewal Agency

By: _____
Gary Milliman, Executive Director

ATTEST:

Joyce Heffington, City/URA Recorder

APPROVED AS TO FORM:

Martha Rice, City/URA Attorney

BUYER: Bi-Mart Corporation, a California Corporation

By: _____
Name:
Title:

ACKNOWLEDGMENTS

STATE OF OREGON)
) ss.
COUNTY OF CURRY)

This instrument was acknowledged before me on _____ (date), by
GARY MILLIMAN (name), EXECUTIVE DIRECTOR (title) of the BROOKINGS
URBAN RENEWAL AGENCY, the duly designated urban renewal agency of the City of Brookings, as
the Agency's voluntary act and deed.

Notary Public for Oregon
My commission expires:

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ (date), by
_____ (name and title) of Bi-Mart Corporation, a
California corporation as its duly authorized representative.

Notary Public for Oregon
My commission expires:

EXHIBITS

- Exhibit A Form of Deed
- Exhibit B Schedule of Performance
- Exhibit C Scope of Development
- Exhibit D Glossary
- Exhibit E Form of Certificate of Completion
- Exhibit F Memorandum of Agreement
- Exhibit G Quitclaim Deed and Escrow Instructions

EXHIBIT A
STATUTORY WARRANTY DEED

After Recording Return to and
Tax Statements to be sent to:

Bi-Mart Corporation
P.O. Box 2310
Eugene, Oregon 97402

STATUTORY WARRANTY DEED

KNOW ALL PEOPLE, that the BROOKINGS URBAN RENEWAL AGENCY, as the duly designated Urban Renewal Agency of the City of Brookings, Oregon (which, together with any successor public agency designated by or pursuant to law, is herein called the "Agency"), does hereby convey and warrant to Bi-Mart Corporation, a California Corporation (the "Buyer"), and unto its successors and assigns, all the following described real property free of encumbrances except as specifically set forth herein, with the tenements, hereditaments, and appurtenances (herein called the "Property"), situated in the County of Curry and State of Oregon:

See Attachment 1 – Description of Real Property.

The conveyance is made pursuant to that certain Agreement for Purchase and Sale of Property located in Curry County, between Buyer and Agency, dated _____, a Memorandum of which was recorded on _____, as Doc. No. _____, Records of Curry County, Oregon (the "Purchase and Sale Agreement"). Any capitalized terms in this Deed have the meanings set out in the Purchase and Sale Agreement, unless otherwise defined herein. The Buyer has given \$615,000.00 and other value for this conveyance.

The conveyance is subject to the following:

1. All easements, covenants, restrictions, conditions and encumbrances as set forth on Attachment 1.
2. A condition subsequent to this conveyance, that the Agency will have the option, in the event of a default by Buyer before the Agency issues a Certificate of Completion, and upon 60 days written notice (hereinafter "Notice of Termination") to said Buyer and the Escrow Agent, and in the event of the failure by the Buyer to remedy, end or abrogate such default within the 60-day period in the manner stated in the Notice of Termination, to then declare a termination in favor of Agency of the title, and of all the rights and interests of the Buyer in the Property. Buyer will reconvey the Property to the Agency by quitclaim deed, pursuant to the Escrow Instructions in Exhibit G to the Purchase and Sale Agreement.

This Deed is made by the Agency pursuant to powers exercised by it under Oregon Revised Statutes Chapter 457, and for the purpose of carrying out the Brookings Urban Renewal Plan (the "Plan"), which was adopted by the City Council of Brookings, Oregon on August 12, 2002, by Ordinance No. 02-O-551. It is intended that the delivery of this Deed will not effect a merger of those provisions of the Purchase and Sale Agreement that are intended by the terms of said Agreement to continue after the delivery of this Deed.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

IN WITNESS WHEREOF, the Brookings Urban Renewal Agency, as the duly designated urban renewal agency of the City of Brookings, a municipal corporation of the State of Oregon, has caused this Deed to be executed this ____ day of _____ 20 ____.

By: _____
Gary Milliman, Executive Director

STATE OF OREGON)
) ss.
COUNTY OF CURRY)

This instrument was acknowledged before me on _____ (date), by GARY MILLIMAN (name), EXECUTIVE DIRECTOR (title) of the BROOKINGS URBAN RENEWAL AGENCY, the duly designated urban renewal agency of the City of Brookings.

Notary Public for Oregon
My commission expires:

Attachment 1 – Description of Real Property

A tract of land in the Southeast quarter of the Southeast quarter of Section 6, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon:

Beginning at a point on the Westerly line of Cove Road in the City of Brookings, Oregon, which point is North 760.18 feet and West 431.02 feet from the Southeast corner of said Section 6;

Thence South 64°10' West 118.34 feet;

Thence North 54°11' West 78.25 feet;

Thence South 16°16' West 78.20 feet;

Thence North 68°05' West 90.0 feet to the Easterly line of Wharf Street;

Thence along said Easterly line South 16°16' West 237.92 feet;

Thence East 405.2 feet to the Westerly line of Cove Road;

Thence along said Westerly line North 12°44' West 283.7 feet to the point of beginning in Curry County, Oregon.

Subject to:

1. The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.
2. An Easement created by instrument, including the terms and provisions thereof,
In favor of: Coos-Curry Electric Cooperative, Inc.
For: Right of way for construction, operation and maintenance of underground electric transmission or distribution lines
Dated: November 4, 1997
Recorded: June 30, 1998
Inst. #: 1998-3367

in Curry County, Oregon.

EXHIBIT B
SCHEDULE OF PERFORMANCE

<u>Date</u>	<u>Action</u>	<u>Responsible Party</u>
01/03/11	Purchase Agreement approved and executed by SELLER and BUYER	JOINT
03/01/11	Submit Applications for Permits to City	BUYER
05/01/11	Obtain Permits for Construction of Project	BUYER
05/08/11	Complete Closing of Property Purchase	JOINT
12/01/11	Complete Construction of Project and obtain Certificate of Completion from City	BUYER
12/31/11	Commence Store Operations (open to public)	BUYER

EXHIBIT C

SCOPE OF DEVELOPMENT

The Project is based on the following BUYER's scope of development:

- Construction of a 30,000 sq. ft. retail space to be utilized as a Bi-Mart store;
- Construction of adequate parking facilities to service the store;
- Construction of all public improvements to support the development, including, but not limited to, sidewalk, curb and gutter, and storm drainage consistent with City of Brookings development standards.

EXHIBIT D

GLOSSARY

1. **"Agreement"** means this Purchase and Sale Agreement and all attached exhibits.
2. **"BUYER"** means Bi-Mart Corporation, a California corporation, or its permitted successors or assigns.
3. **"Certificate of Completion"** means a certificate to be issued by SELLER to BUYER pursuant to Section 5.6 of this Agreement indicating SELLER's material acceptance of the Project.
4. **"City"** means the City of Brookings, Oregon.
5. **"Close" or "Closing"** means the conveyance of the Property to BUYER by SELLER by Deed and the simultaneous payment of the Purchase Price by BUYER to SELLER, all as more specifically described in Section 2 of this Agreement.
6. **"Closing Date"** means the date on which SELLER conveys the Property to BUYER.
7. **"Deed"** means the form of Statutory Warranty Deed conveying fee simple title to the Property to BUYER subject to SELLER's right of re-entry to the Property substantially in the form attached to this Agreement as Exhibit A.
8. **"Effective Date"** means the date that the Parties executed this Agreement.
9. **"Environmental Laws"** means all federal, state and local laws, ordinances, rules and regulations pertaining to the protection or regulation of the environment that apply to the Property, including without limitation, RCRA (defined herein), CERCLA (defined herein), the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act.
10. **"Escrow Agent"** means First American Title Company in its Brookings, Oregon office.
11. **"Escrowed Funds"** means the \$50,000 earnest money paid into escrow by BUYER and held pursuant to section 2.9 of this Agreement.
12. **"Final Construction Plans and Specifications"** means all plans and specifications required to complete the Project pursuant to the terms of this Agreement approved by the appropriate City agencies.
13. **"Hazardous Substances"** means any pollutant, dangerous substance, toxic substance, asbestos, petroleum, petroleum product, hazardous waste, hazardous materials or hazardous substances as defined in or regulated by Chapter 466 of the Oregon Revised Statutes, the Resource Conservation Recovery Act, as amended, 42 USC Section 6901, et seq. ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC Section 9601, et seq. ("CERCLA"), or any other Environmental Law.
14. **"Mortgage"** means a mortgage or deed of trust against the Property, or any portion thereof, recorded in the real property records of Curry County, Oregon.

15. **"Mortgagee"** means the holder of any Mortgage affecting or encumbering the Property or any portion thereof, together with any successor or assignee of such holder. The term "Mortgagee" includes any Mortgagee as owner of the property or any part thereof 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 but does not include (a) any other party who thereafter obtains title to the Property or such part from or through a Mortgagee or (b) any other purchaser at foreclosure sale other than a Mortgagee.
16. **"Notice"** means any summons, citation, order, claim, litigation, investigation, proceeding, judgment, letter or other communication, written or oral, issued by the Oregon Department of Environmental Quality ("DEQ"), the United States Environmental Protection Agency, and other federal, state or local authority or any other government having jurisdiction with respect to the Property.
17. **"Project"** generally means the Property, fixtures and the buildings, and other improvements BUYER proposes to construct on the Property as initially described in the Scope of Development.
18. **"Property"** means 1.99 acres of land located along Wharf Street in Brookings, Oregon and more particularly described in Inst. # 1999-2754, Records of Curry County.
19. **"Purchase Price"** means the price BUYER will pay to SELLER for the Property to be conveyed by SELLER to BUYER pursuant to Section 2.2.
20. **"Release"** means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, disposing or dumping.
21. **"Schedule of Performance"** means the document describing the schedule by which construction and development will be completed, attached hereto as Exhibit B.
22. **"Scope of Development"** means the detailed description of the new improvements to be built comprising the Project, attached hereto and incorporated herein as Exhibit C.
23. **"SELLER"** means the Brookings Urban Renewal Agency.

EXHIBIT E

FORM OF CERTIFICATE OF COMPLETION

After recording return to:

Gary Milliman, Executive Director
City of Brookings URA
898 Elk Drive
Brookings, OR 97415

CERTIFICATE OF COMPLETION

The **BROOKINGS URBAN RENEWAL AGENCY** (which together with any successor public agency designated by or pursuant to law, is herein called "SELLER"), hereby certifies that **BI-MART CORPORATION**, (herein called "BUYER") has satisfactorily completed construction of the improvements on the Property as such improvements are described in the Agreement for Purchase and Sale of Property – 220 Wharf Street, Brookings, Oregon, dated _____ (herein called the "Purchase Agreement"), a Memorandum of which was recorded in the Records of Curry County, Oregon as Document No. _____, on _____ (the Memorandum"). Pursuant to Section 5.6.A. of the Agreement, SELLER hereby certifies that:

- (1) the Project is substantially completed according to the Final Construction Plans and Specifications;
- (2) the City of Brookings has issued its Certificate of Occupancy with respect to the Project; and
- (3) any other improvements required by the terms of the Purchase Agreement to have been completed at the time the Project is complete have been substantially completed.

This Certificate of Completion is and will be a conclusive determination of the satisfaction of all of the agreements, covenants and conditions contained in the Agreement, and the same will automatically cease and become of no further effect. This Certificate represents and certifies the completion of construction of the Property as to SELLER only.

Further,

- (1) Any party acquiring or leasing any portion of the Project will not (because of such purchase or lease) have any obligation under the Agreement, and
- (2) The Memorandum is of no further force or effect with respect to the Project and SELLER hereby quitclaims to the owner or the owners of the Project any right title or interest under the Memorandum with respect to the Project. SELLER will hereafter have, or be entitled to exercise, no rights or remedies or controls that it may otherwise have been entitled to exercise under the Purchase Agreement as a result of a default in or breach of any provisions of the Purchase Agreement by the BUYER, or by any successors in interest or assigns of BUYER, including but not limited to the right to declare a termination in favor of SELLER of all the title, rights, and interest of BUYER in the Property and to cause BUYER's title, right, and interest in the Property to revert to SELLER.

EXHIBIT F

FORM OF MEMORANDUM OF AGREEMENT

After recording return to:

Gary Milliman, Executive Director
City of Brookings URA
898 Elk Drive
Brookings, OR 97415

Memorandum of Agreement For Purchase and Sale of Property

THIS MEMORANDUM OF AGREEMENT FOR PURCHASE AND SALE OF PROPERTY ("Memorandum") serves as notice to all persons that the **BROOKINGS URBAN RENEWAL AGENCY**, the duly designated urban renewal agency of the City of Brookings, Oregon ("SELLER"), and **BI-MART CORPORATION**, a California Corporation ("Buyer"), entered into an Agreement For Purchase and Sale of Property – 220 Wharf Street, Brookings, Oregon dated _____ ("Purchase Agreement") relating to real property conveyed by SELLER (the "Property") located in Curry County, Oregon. The Property is commonly known as: 220 Wharf Street, City of Brookings, Curry County, Oregon (more particularly described in Inst.# 1999-2754, Records of Curry County).

The parties are: Brookings Urban Renewal Agency
 City of Brookings
 898 Elk Drive
 Brookings, OR 97415

 Bi-Mart Corporation
 Attn: John Harris, President
 PO Box 2310
 Eugene, OR 97402

Among other things, the Agreement requires SELLER to convey the Property to BUYER upon the satisfaction of certain conditions precedent, and requires BUYER to use the Property in compliance with the Brookings Urban Renewal Plan, all as more particularly set forth in the Purchase Agreement (the "Project"). Other property or value was part of the whole consideration given for the Property conveyance referenced herein.

As a condition subsequent to the SELLER Property conveyance, pursuant to the provisions of ORS 457.230, in the event of a default by BUYER before the City of Brookings issues a Certificate of Completion of the Project according to the Schedule of Performance agreed to by the Parties hereto, SELLER will have the option to declare a termination in favor of SELLER of all the title, rights and interests of BUYER in the Property. Upon such declaration of termination, BUYER's title, right and interest in the Property will revert to SELLER.

SELLER and BUYER execute this Memorandum to acknowledge being bound by the Purchase Agreement and to give notice of the Agreement to third parties.

SELLER: BROOKINGS URBAN RENEWAL AGENCY

By: _____
Gary Milliman, Executive Director

Date: _____

BUYER: BI-MART CORPORATION

By: _____
Name:
Title:

Date: _____

STATE OF OREGON)
) ss.
COUNTY OF CURRY)

This instrument was acknowledged before me on _____ (date), by
GARY MILLIMAN (name), EXECUTIVE DIRECTOR (title) of the BROOKINGS
URBAN RENEWAL AGENCY, the duly designated urban renewal agency of the City of Brookings.

Notary Public for Oregon

My commission expires:

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____ (date), by
_____ (name and title) of Bi-Mart Corporation, a
California corporation as its duly authorized representative.

Notary Public for Oregon

My commission expires:

EXHIBIT G

FORM OF QUITCLAIM DEED & ESCROW INSTRUCTIONS

After recording return to
and send tax statements to:

Gary Milliman, URA Executive Director
City of Brookings URA
898 Elk Drive
Brookings, OR 97415

QUITCLAIM DEED

For valuable consideration, receipt of which is hereby acknowledged, BI-MART CORPORATION ("Grantor"), does hereby release and quitclaim to the BROOKINGS URBAN RENEWAL AGENCY, the duly designated Urban Renewal Agency of the City of Brookings, Oregon ("Grantee"), all right, title and interest in and to the following described real property, with the tenements, hereditaments and appurtenances, situated in the County of Curry and State of Oregon, to wit:

See Attachment 1 – Description of Real Property

To have and to hold the same unto the said Grantee and Grantee's successors and assigns forever.
The consideration consists of or includes other value given or promised which is the whole consideration.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE THE LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

In Witness Whereof, Grantor has executed this instrument this ____ day of _____, ____.

BI-MART CORPORATION

By: _____
Name:
Title:

STATE OF OREGON)
) ss.
COUNTY OF _____)

The foregoing document was personally acknowledged before me this __ day of _____, 200__, by _____ [name] _____, who being duly sworn, did say that he is the [____ title _____] of Bi-Mart Corporation, and that the foregoing instrument was signed on behalf of said corporation, and acknowledged said instrument to be its voluntary act and deed.

Notary Public for Oregon

My Commission Expires: _____

Accepted this ____ day of _____, _____.

BROOKINGS URBAN RENEWAL AGENCY

By: _____
Gary Milliman, Executive Director

STATE OF OREGON)
) ss.
COUNTY OF CURRY)

This instrument was acknowledged before me on _____ (date), by
GARY MILLIMAN (name), EXECUTIVE DIRECTOR (title) of the BROOKINGS
URBAN RENEWAL AGENCY, the duly designated urban renewal agency of the City of Brookings.

Notary Public for Oregon

My commission expires:

EXHIBIT G (Continued)
ESCROW INSTRUCTIONS FOR QUITCLAIM DEED

Title Company
Address
City, State, Zip

Re: Escrow No.

Bi-Mart Corporation, a California Corporation ("Buyer") has entered into that certain Agreement for Purchase and Sale of Property – 220 Wharf Street, Brookings, Oregon, ("Purchase and Sale Agreement") with the Brookings Urban Renewal Agency ("Agency") dated _____, a Memorandum of which was recorded on _____ as Doc. No. _____, Records of Curry County, Oregon, whereby the Agency agreed to convey to the Buyer or its assignees certain real property (the "Property"). The Property is the subject of this escrow and is described in the accompanying quitclaim deed ("Quitclaim Deed").

Section 9.4. of the Purchase and Sale Agreement provides that, under certain circumstances, the Agency is entitled to reconveyance of the Property pursuant to the Quitclaim Deed and Escrow Instructions, all in accordance with the requirements of ORS 457.230. This document constitutes those escrow instructions and is for the purpose of irrevocably instructing you as to the disposition of the accompanying Quitclaim Deed.

In the event that you receive from Agency a notice signed by the Agency's Executive Director certifying that a copy of said notice has been delivered concurrently to Buyer and certifying that the Purchase and Sale Agreement has been terminated according to its terms, and the rights to the Property described in the Quitclaim Deed have reverted in the Agency pursuant to the Purchase and Sale Agreement ("Notice of Termination"), you must at the end of sixty (60) days after receipt of said instructions record the Quitclaim Deed unless you are within said sixty (60) day period, notified by the Agency that the Agency has withdrawn the Notice of Termination, or unless you are prohibited from recording the Quitclaim Deed by temporary restraining order, preliminary injunction, or other court order.

In the event that you receive a copy of a Certificate of Completion (as defined in the Agreement for Purchase and Sale of Property – 220 Wharf Street, Brookings, Oregon, with an Effective Date of _____, 2010) from the Agency with respect to the Property (either an original or one certified by Buyer as being a duplicate of the original), you will forthwith return the Quitclaim Deed to Buyer.

These instructions may not be withdrawn or in any way amended, modified or waived without the prior written consent of both of the parties hereto.

Please indicate your acceptance of and agreement to carry out these instructions as indicated below.

Very truly yours,

for Bi-Mart Corporation

Very truly yours,

for the Brookings Urban Renewal Agency

Accepted and agreed to this ____ day of _____, 200__.

NAME OF TITLE COMPANY

By: _____

Name:

Title:

Joyce Heffington

From: judy kaplan [judykaplan101@gmail.com]
Sent: Monday, December 27, 2010 4:35 PM
Subject: BiMart

Please provide a copy of this email to the Mayor and City Council Members

To the Honorable Mayor and City Council members:

Re. BiMart

I look forward to having a BiMart store here.

I have only one concern -- the movement of traffic.

There are 4+ streets that intersect at the location -- Memory Lane, Railroad, Cove, and Wharf.

Railroad is already used extensively by locals, creating a major challenge when any/all cars try to enter Railroad or cross it. In addition Railroad is the truck bypass for Highway 101.

It will be important to reconfigure the intersections, so that the increased amount of traffic will flow smoothly. I would urge you to include the cost of doing so a requirement that BiMart must bear.

Thank you.

Judy Kaplan
441 Buena Vista Loop
412-7498