

RESOLUTION NO. 6

A RESOLUTION AUTHORIZING THE TROUTDALE URBAN RENEWAL AGENCY TO ENTER INTO AN OPTION AGREEMENT FOR THE PURCHASE OF CERTAIN PROPERTY FROM EASTWIND DEVELOPMENT,LLC.

THE TROUTDALE CITY COUNCIL, ACTING IN ITS CAPACITY AS THE TROUTDALE URBAN RENEWAL AGENCY GOVERNING BODY, FINDS AS FOLLOWS:

1. In November 2003, the City of Troutdale completed a planning process known as the "Full Vision Plan" to analyze the possible joint redevelopment of two adjacent parcels of Property – a 12.0 acre site owned by the City of Troutdale and a 8.3 acre site owned by Eastwind Development, LLC – ("Joint Parcels") into residential, commercial and public uses as set out in the Full Vision Plan.
2. In May, 2006 the City of Troutdale, with voter approval, adopted the Troutdale Riverfront Renewal Plan ("Plan") which addresses the re-development of the Joint Parcels which Plan is managed by the Troutdale Urban Renewal Agency ("Agency").
3. In order for the Agency to continue moving forward with the plans for redevelopment of the Joint Parcels, the City of Troutdale will transfer its interest in the 12.0 City-owned site to the Agency and Eastwind Development, LLC is willing to enter into an option agreement with the Agency allowing the Agency to purchase the 8.3 acre Site, subject to conditions.
4. The Agency is willing to enter an Option Agreement with Eastwind Development for the purchase of the Eastwind Site.

NOW THEREFORE, BE IT RESOLVED BY THE TROUTDALE URBAN RENEWAL AGENCY:

- Section 1. The Council, acting in its capacity as the governing body of the Troutdale Urban Renewal Agency ("Agency") hereby authorizes the City Administrator and/or Agency Board Chair to sign, on behalf of the Agency, an option agreement with Eastwind development, LLC in a form substantially like that attached hereto as Exhibit "1".

Section 2. This resolution is and shall be effective from and after its passage by the Agency's governing body.

YEAS: 6
NAYS: 0
ABSTAINED: 0


Paul Thalhofer, Agency Board Chair

Date July 18, 2007


Debbie Stickney, City Recorder

Adopted: July 17, 2007

OPTION AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

PARTIES: TROUTDALE URBAN RENEWAL AGENCY,
the duly authorized and acting urban renewal agency
of the City of Troutdale, Oregon
104 S.E. Kibling Ave.
Troutdale, OR 97060

“Agency”

EASTWIND DEVELOPMENT LLC,
An Oregon limited liability company
17230 N.E. Sacramento St.
Portland, OR 97230

“Eastwind”

EFFECTIVE DATE: July 18, 2007

RECITALS

A. The City of Troutdale (“City”) will ~~transfer~~ ^{12.08 JBA 7/9/07} to the Agency certain real property consisting of approximately ~~12.7~~ ^{mg 7/9/07} acres that is the former location of its sewage treatment plant (“Agency Property”). The Agency Property is shown on Exhibit A attached to this Option Agreement for Purchase and Sale of Real Property (“Agreement”). A legal description of the Agency Property is attached as Exhibit A-1 to this Agreement. ^{mg 7/9/07}

B. Eastwind owns certain real property consisting of approximately ~~7.5~~ ^{8.3 JBA 7/9/07} acres adjacent to the Agency Property that was formerly in industrial use (“Eastwind Property”). The Eastwind Property is shown on Exhibit A, attached to this Agreement. A legal description of the Eastwind Property is attached as Exhibit A-2 to this Agreement.

C. In November 2003, the City completed a planning process for the Agency Property and the Eastwind Property (together, the “Development Site”) resulting in a “Full Vision Plan.” The key elements of this plan are a mix of residential and commercial development, a park on the banks of the Sandy River, a public plaza, a pedestrian overpass (over the Union Pacific Railroad tracks) and a public parking structure.

D. In May 2006, the City, with voter approval, adopted the Troutdale Riverfront Renewal Plan (“Urban Renewal Plan”). The Urban Renewal Plan authorizes the use of tax increment financing, along with other public and private funding sources, to develop access and utilities to serve the Development Site, as well as the key public elements of the Full Vision Plan.

E. The Agency wishes to issue a request for development proposals (“RFP”) for the Development Site in a manner consistent with the Full Vision Plan and the

Urban Renewal Plan, and to do so, must have the authority to acquire the Eastwind Property. Eastwind may respond to the RFP.

- F. If Eastwind does not submit a response to the RFP, or if Eastwind submits a proposal, but the Agency does not choose Eastwind as the Selected Developer, Eastwind is willing to convey the Eastwind Property to the Agency on the terms and conditions stated herein.

AGREEMENT

1 Defined Terms

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 C, 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 C, the definition in the text controls. Defined terms may be used in the singular or the plural.

2 Option to Purchase

2.1 Grant of Option. In consideration of Agency's payment of \$1.00 and other good and valuable consideration, receipt of which Eastwind acknowledges, Eastwind hereby grants to the Agency an exclusive option to purchase the Eastwind Property in the manner and on the conditions described below the Option during the Option Period.

2.2 Option Period; Commencement and Termination Date. The Option Period shall commence on the Effective Date. The Option Period shall end on the date that is 540 days after the Chelsea Option Effective Date, unless the Option is extended or terminated pursuant to this Agreement. The Parties have agreed to a schedule for the Parties' activities during the Option Period and prior to Closing, which schedule is attached hereto as Exhibit B ("Schedule").

2.3 Extension of Option Period. The Option Period may be extended for a term of twelve (12) months by the Parties' mutual agreement. If the Agency desires to extend the Option Period, the Agency shall notify Eastwind in writing of the Agency's desire to extend the Option Period, on or before the date that is ninety (90) days before the conclusion of the Option Period. Eastwind shall give its consent to extend the Option Period, if given, in writing before the conclusion of the Option Period. Eastwind shall not unreasonably withhold or delay its consent.

2.4 Option Exercise; Closing Date. The Agency may exercise the Option by giving Eastwind written notice of its exercise during the Option Period ("Notice to Exercise Option"). If the Agency exercises the Option, and upon satisfaction of the conditions precedent to the Closing set out in Section 3 below, the Agency shall purchase

and Eastwind shall convey, the Eastwind Property on or before the Estimated Closing Date pursuant to the terms and conditions of this Agreement (the "Closing").

The Notice to Exercise Option shall include the Estimated Closing Date, and a statement of whether or not Eastwind shall be required to remove the water tower and/or demolish the spring water well in compliance with Section 6.1 below, and the Schedule (Exhibit B). The water tower and the spring water well are shown on Exhibit A, the Aerial Photo of the Development Site.

If, after Agency has given the Notice to Exercise Option, the Closing does not occur by the Estimated Closing Date, then this Agreement shall automatically terminate on the Estimated Closing Date ("Final Termination Date") unless the date for the Closing is extended by agreement of the Parties prior to the Final Termination Date, or unless the failure to Close is the result of an Unavoidable Delay, as described in Section 10 below, or the result of a failure of the conditions to Closing set forth in Section 3 below. If the Final Termination Date is extended for a period of Unavoidable Delay, the maximum period of Unavoidable Delay shall be 360 days. Notwithstanding any other provision of this Section 2.4, if the failure to Close is the result of failure of a condition to Closing, the Parties shall proceed pursuant to Section 3.4 below. If the Closing does not occur because of a Party's default under this Agreement, the non-defaulting Party shall have the remedies under Section 8.2.

2.5 Termination; Consequences of Termination

2.5.1 If Eastwind submits a response to the RFP and the Agency chooses Eastwind as the Selected Developer, and the Agency and Eastwind enter into a disposition and development Agreement ("Eastwind DDA") for development of the Developer Parcel, the terms of the Eastwind DDA may include modifications to this Option Agreement. Upon closing of the transfer of the portion of the Agency Property included in the Developer Parcel to Eastwind pursuant to terms of the Eastwind DDA, this Agreement shall automatically terminate and all obligations of the Parties to each other under the Agreement shall be cancelled.

2.5.2 If the Agreement is terminated prior to Agency giving the Notice to Exercise Option as a result of a breach of this Agreement by the Agency, then Eastwind may exercise its remedies provided in Section 8.2.

2.5.3 If the Agreement is terminated prior to Agency giving the Notice to Exercise Option as a result of a breach of this Agreement by Eastwind, the Agency may exercise its remedies provided in Section 8.2.

3 Conditions Precedent to Purchase and Conveyance of Eastwind Property

After Agency's exercise of the Option, the Agency and Eastwind are not obligated to Close the conveyance of the Eastwind Property unless the following conditions are satisfied to the reasonable satisfaction of the benefited Parties. The Party benefited by a particular condition shall not unreasonably withhold, condition or delay acknowledgment that the condition has been satisfied. To the extent that satisfaction of a condition is within the reasonable control or influence of a Party, that Party shall act in good faith to satisfy, or influence the satisfaction of that condition.

3.1 To the Agency's and Eastwind's Satisfaction

Agency and Eastwind are each benefited parties of the following conditions:

3.1.1 The Agency and Eastwind shall have agreed to the final form of the Deed.

3.1.2 Agency and Eastwind shall have agreed to the final form of the Deed and the Purchase Price Note and any other required documents to Close the transaction.

3.1.3 There shall be no litigation pending that prevents the Agency or Eastwind from performing their respective obligations under this Agreement; provided that, in the event of filing any such litigation, the Agency may extend this contingency, and the Closing, for a period not to exceed three hundred and sixty (360) days, or such longer period as may be agreed to by Eastwind and the Agency.

3.1.4 No Party shall be in default beyond any applicable cure period under any material term or condition of this Agreement.

3.2 To the Agency's Satisfaction:

Agency is the benefited Party of the following conditions:

3.2.1 The Agency shall have determined, within ninety (90) days after the Effective Date, that Eastwind has title to the Eastwind Property subject only to conditions and exceptions reasonably satisfactory to the Agency ("Permitted Exceptions"). As part of this condition, within thirty (30) days after the Effective Date, Eastwind will deliver to the Agency and its counsel a preliminary title report and copies of all exception documents (the "Title Report"). The Agency will have twenty (20) days after receiving the Title Report to notify Eastwind in writing if the Agency disapproves of any item in the Title Report. If the Agency disapproves of any item, then Eastwind shall have twenty (20) days after receiving the Agency's written notice of disapproval to remove the item, or to make such other arrangements for satisfying the Agency's concern with the item as is reasonably acceptable to the Agency. If Eastwind does not do so within the twenty (20) day time period, the Agency, as its sole remedy, may terminate this Agreement by written notice to Eastwind. If the Agency does not terminate the Agreement pursuant to this Section 3.2.1, the exceptions remaining on title to the Eastwind Property (except those for which Eastwind has agreed to remove at or prior to Closing) shall become Permitted Exceptions.

3.2.2 Escrow Agent shall have issued to the Agency a binding commitment satisfactory to the Agency to issue an ALTA Extended Coverage Owner's Policy of Title Insurance covering the Eastwind Property in an amount not less than the Purchase Price, subject only to the Permitted Exceptions.

3.2.3 The Agency shall have entered into an agreement for the disposition and development of the Developer Parcel with a Selected Developer ("Developer DDA"), all conditions precedent to transfer of the Developer Parcel pursuant to the Developer DDA shall have been satisfied, and the Selected Developer is

unconditionally prepared to close the acquisition of the Developer Parcel on terms acceptable to the Agency.

3.2.4 Agency has funds required to close available at Closing.

3.2.5 Agency shall be satisfied with the physical condition of the Eastwind Property after Eastwind's completion of the pre-conveyance activities required pursuant to Section 6 below. Agency may inspect the Eastwind Property after completion of the Eastwind pre-conveyance activities to determine its satisfaction, which inspection may include physical testing.

3.2.6 Except as otherwise agreed to by the Agency prior to Closing, Eastwind shall have terminated all leases, tenancies, permits, licenses or any other right to possession of the Eastwind Property, including, but not limited to a right to maintain antennae on the water tower.

3.2.7 Eastwind shall not be in default beyond any applicable cure period under any material term or condition of this Agreement. As of Closing, Eastwind shall represent to the Agency that there are no material defaults by Eastwind under this Agreement or events which with the passage of time would constitute a material default by Eastwind under this Agreement.

3.2.8 As of Closing, Eastwind shall represent to the Agency that:

(a) Eastwind has the full power and authority to enter into all documents required to Close the transaction;

(b) Eastwind is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended; and

(c) Eastwind and each person or entity owning an interest in Eastwind is (i) not identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control, Department of the Treasury ("OFAC") and/or on any other similar list maintained by OFAC pursuant to any authorizing statute, executive order or regulation (collectively, the "List"), and (ii) not a person or entity with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States, (b) none of the funds or other assets of Eastwind constitute property of, or are beneficially owned, directly or indirectly, by any Embargoed Person (as hereinafter defined), and (c) no Embargoed Person has any interest of any nature whatsoever in Eastwind (whether directly or indirectly). The term "Embargoed Person" means any person, entity or government subject to trade restrictions under law, including but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Eastwind is prohibited by law or Eastwind is in violation of law.

3.3 To Eastwind's Satisfaction

Eastwind is the benefited Party of the following conditions:

3.3.1 Agency shall represent to Eastwind that, as of Closing, Agency has the full power and authority to enter into all documents required to Close the transaction.

3.3.2 Agency shall provide reasonable proof that the Agency has funds and full authority to Close the purchase of the Eastwind Property.

3.3.3 The Agency shall not be in default beyond any applicable cure period under any material term or condition of this Agreement. As of Closing, the Agency shall represent to Eastwind that there are no material defaults by the Agency under this Agreement or events which with the passage of time would constitute a material default by the Agency under this Agreement.

3.4 Elections upon Nonoccurrence of Conditions

If any condition in Section 3.3 is not fulfilled to the satisfaction of the benefited Party or Parties (i) at the time designated in the Schedule for satisfaction of the same, or (ii) if no time is specified for satisfaction of such condition in the Schedule, on the outside date specified in the Schedule for the Closing, (the applicable date being hereinafter referred to as the "Option Termination Date"), then such benefited Party or Parties may elect to:

3.4.1 Terminate the Agreement, which termination shall become effective sixty (60) days after the notice of termination is sent unless, before the sixty (60) day period ends, the such condition or conditions are satisfied to the reasonable satisfaction of the benefited Party or Parties; or

3.4.2 Waive in writing the benefit of that condition precedent to its obligation to perform under this Agreement; or

3.4.3 Extend the Option Termination Date to provide for satisfaction of the applicable condition if the other Party agrees in writing to the extension.

4 Closing

Subject to the terms, covenants and conditions of this Agreement, at the Closing,

4.1 Eastwind will convey the Eastwind Property by Warranty Deed ("Deed") to the Agency, subject only to the Permitted Exceptions.

4.2 Agency shall pay to Eastwind the Purchase Price as follows:

4.2.1 Agency shall pay Eastwind \$400,000 cash at Closing; and

4.2.2 Agency shall pay the balance of the Purchase Price to Eastwind not later than ninety (90) days after Closing. Agency's obligation to pay the Purchase Price after Closing shall be secured by a Purchase Price Note, due ninety (90) days after Closing, without interest, provided however, that if the Agency does not pay the Purchase Price Note when due, interest shall accrue at a fixed interest rate equal to the prime rate as of the Closing Date, plus 50 basis points, until paid. The Purchase Price Note shall be an unsecured debt of the Agency.

4.3 Closing shall occur in an escrow closing at the office of the Escrow Agent not later than the Estimated Closing Date, as may be extended by mutual agreement of the Parties.

4.4 Eastwind, at its expense, shall provide the Agency with an ALTA Extended Coverage Owner's Policy of Title Insurance, *in Form B-1992*, issued by Escrow Agent, covering the Eastwind Property, insuring the Agency in the amount of the Purchase Price.

4.5 Eastwind will deliver possession of the Eastwind Property to the Agency at Closing.

4.6 The costs for recording the Deed and any other documents required by the Agency to be recorded will be paid by the Agency. The Agency shall pay one-half (1/2) of any escrow fees charged by Escrow Agent. Eastwind shall pay one-half (1/2) of any escrow fees charged by Escrow Agent. Taxes and any assessments will be prorated as of the date of Closing.

5 Purchase Price

The Purchase Price for the Eastwind Property is \$1,611,937.

6 Eastwind Pre-Closing Activities

Eastwind will complete the following activities as conditions precedent to the Closing:

6.1 Demolish the structures existing on the Eastwind Property, including but not limited to, all surface paving, and any rails and rail ties. All demolition shall be completed pursuant to applicable laws (including Environmental Laws) and valid permits. Demolition includes the removal of subsurface structures, specifically subsurface foundations and footings and utility lines not in use. Demolition does not include demolishing the water tower or demolishing and filling the spring water well if the Agency notifies Eastwind in the Notice to Exercise Option that the water tower and/or the spring water well shall remain. If Eastwind is required to demolish the spring water well, Eastwind shall also complete any action necessary to legally divert the flow of spring water away from the Eastwind Property.

6.2 Fill in all basements or other subsurface excavations.

6.3 Grade the portion of the Eastwind Property from which structures have been removed to meet the grade of the portions of the Eastwind Property that have not been disturbed by demolition.

6.4 Kleinfelder, Inc., an environmental consultant, has completed a Phase I Environmental Site Assessment of the Development Site, dated January 5, 2006, ("Phase I ESA"), a Phase II Environmental Site Assessment, dated May 12, 2006 ("Phase II ESA") for the Development Site, and a Hazardous Building Material Survey of several buildings on the Development Site, dated May 12, 2006 ("HBMS"). The Phase II ESA and the HBMS recommend certain remediation activities for the Eastwind Property. Eastwind will cause the completion of the environmental remediation activities recommended by the Phase II ESA and the HBMS. Eastwind will provide written evidence of the completion of these activities to the Agency not later than thirty (30) days

prior to the Estimated Closing Date, in form sufficient for the Agency to confirm the completion.

7 Environmental Representations and Indemnity

7.1 Representations. Except as has been disclosed to Eastwind in the Phase I ESA, the Phase II ESA and the HBMS, to Eastwind'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 Eastwind Property, or underground storage tanks existing on the Eastwind Property, except in compliance with Environmental Laws currently in effect, and Eastwind has not received notice of the release of any Hazardous Substances on the Property.

7.2 Indemnification. Eastwind shall defend, indemnify and hold harmless the Agency, 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 incurred by the Agency, its successors or assigns, or asserted against the Agency, 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 Eastwind. Eastwind's indemnity includes indemnity for risks arising from conditions existing on the Eastwind Property at Closing, except to the extent the Agency, its successors or assigns, has caused the deterioration of such conditions. The indemnity set forth in this Section 7.2 shall survive the Closing.

7.3 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.

8 DEFAULT; REMEDIES

8.1 A default shall occur if a Party breaches any material provision of this Agreement, including, without limitation, a failure to adhere to the Schedule for any element of the Schedule which is in the control of that Party, whether by action or inaction, and such breach continues and is not remedied within sixty (60) days after the Party receives written notice from the other 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 the breaching Party shall not within such sixty (60) day period commence the cure of the breach and thereafter diligently prosecute to completion such cure.

8.2 In addition to any specific remedy stated in this Agreement for default, in the event of a Party's material default the other Party may specifically enforce the defaulting Party's obligations, or seek monetary damages.

9 ASSIGNMENT PROVISIONS

9.1 Unless approved by the express written consent of the Agency, Eastwind may not assign any interest in this Agreement or transfer an interest in the Eastwind Property during the Option Period, or if the Agency exercises the Option, prior to Closing.

Agency may condition its approval of an assignment or transfer as the Agency finds necessary in its sole discretion.

9.2 The Agency may assign its interest in this Agreement to the City or to a Selected Developer for the sole purpose of facilitating conveyance and development of the Developer Parcel pursuant to a Developer DDA.

9.3 Except for an assignment or transfer allowed by Sections 9.1 or 9.2 above, neither Eastwind nor the Agency may assign or transfer an interest in the Option or in its respective property. Any attempt to assign or transfer an interest in this Option, or the Eastwind Property or the Agency Property, or any portion thereof during the Option Period shall trigger the remedies of Section 8.2.

10 UNAVOIDABLE DELAY

10.1 Neither a Party nor Party's successor in interest shall 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, extraordinary delay in the issuance of necessary permits for any activities of a Party that require a permit, 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.

10.2 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 Agency or Eastwind as the case may be, shall be extended for the period of the Unavoidable Delay; provided, however, that the Party seeking the benefit of this Section shall, 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. Notwithstanding any other provision of this Agreement, the time for Parties' performance shall not be extended by one or more events of Unavoidable Delay for a cumulative period greater than 360 days.

11 DISPUTE RESOLUTION

With respect to any provision of this Agreement where Dispute Resolution is referenced as a means to resolve disagreements between the Parties then the provisions of this Section 11 shall apply. When a disagreement exists, any Party whose agreement, consent or approval is required may initiate this dispute resolution process by written notice to the other Party. The Parties shall select a person (a "Dispute Resolver") to resolve the dispute. The Dispute Resolver shall set the timing, procedures and rules for resolving the dispute. The Dispute Resolver shall be independent of the Parties and shall not have had a business relationship with any Party within the last five (5) years. The Dispute Resolver shall be a person who (a) is a resident of the Portland metropolitan area,

and (b) has substantial experience in resolving complex business and real estate issues in a public or private context. If after ten (10) days the Parties cannot agree on the person who will be the Dispute Resolver, then the Parties shall meet and each shall submit two (2) qualified candidates' names, the resulting names will be placed in a vessel, and the first name drawn will be the Dispute Resolver. The Dispute Resolver's fees shall be paid equally by the Parties.

12 MISCELLANEOUS PROVISIONS

12.1 Good Faith and Fair Dealing

The Parties shall have imputed to all of their duties, obligations, and acts performed under this Agreement, a standard of conduct of good faith and fair dealing.

12.2 Conflict of Interests

No member, official, or employee of the Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested.

12.3 Governing Law; Venue; Jurisdiction

This Agreement shall be governed and construed according to the laws of the State of Oregon, without regard to its choice of law provisions. Any action or suit to enforce or construe any provision of this Agreement by either party shall be brought in the Circuit Court of the State of Oregon for Multnomah County or the Federal District Court located in Multnomah County, Oregon. The Circuit Court of the State of Oregon for Multnomah County or the Federal District Court located in Multnomah County shall have exclusive jurisdiction over all lawsuits brought by a Party against the other Party with respect to the subject matter of this Agreement, and each Party hereby irrevocably consents to such exclusive jurisdiction and waives any and all objections it might otherwise have with respect thereto.

12.4 No Benefit to Third Parties

The Agency and Eastwind are the only parties to this Agreement and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Agreement. There are no third-party beneficiaries of this Agreement.

12.5 Notices

All notices given under this Agreement shall be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

AGENCY: Troutdale Urban Renewal Agency
c/o John Anderson, City Administrator
City of Troutdale
104 S.E. Kibling Avenue
Troutdale, OR 97060

With a copy to: City Attorney
City of Troutdale
104 S.E. Kibling Avenue
Troutdale, OR 97060

EASTWIND: Eastwind Development LLC
17230 N. E. Sacramento St.
Portland, OR 97230

Notices shall be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

12.6 Time is of the Essence

Time is of the essence in the performance of and adherence to each and every provision of this Agreement.

12.7 Non-waiver

Waiver by any Party of strict performance of any provision of this Agreement shall not be deemed a waiver of or prejudice a Party's right to require strict performance of the same or any other provision in the future. A claimed waiver must be in writing and signed by the Party granting a waiver. A waiver of one provision of this Agreement shall be a waiver of only that provision. A waiver of a provision in one instance shall be a waiver only for that instance, unless the waiver explicitly waives that provision for all instances.

12.8 Non-waiver of Government Rights

By entering into this Agreement, the Agency is specifically not obligating itself, the City, or any other agency with respect to any police power or regulatory actions relating to the Eastwind Property, including, but not limited to, rezoning, variances, environmental clearances or any other governmental approvals which are or may be required.

12.9 Survival

Any covenant or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, shall

survive the expiration or earlier termination of this Agreement and shall remain fully enforceable thereafter.

12.10 Partial Invalidity

If any provision of this Agreement is held to be invalid or unenforceable, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12.11 Calculation of Time

Unless referred to as Business Days, all periods of time shall include Saturdays, Sundays, and Legal Holidays. However, if the last day of any period falls on a Saturday, Sunday, or legal holiday, then the period shall be extended to include the next day which is not a Saturday, Sunday, or Legal Holiday. "Business Days" shall mean Monday through Friday, and "Legal Holiday" shall mean any holiday observed by the State of Oregon.

12.12 Headings

The section headings are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

12.13 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

12.14 Amendments

This Agreement may be modified only by a writing signed by the Parties after authorization by the governing entity of each Party.

12.15 Attorneys' Fees

If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U. S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover its attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law.

12.16 Entire Agreement

This Agreement constitutes the entire agreement between the Parties as to the subject matter covered by this Agreement.

12.17 Successors and Assigns

The rights, obligations, liabilities, and remedies provided in this Agreement shall extend to the successors-in-interest of the Parties and to any permitted transferees and assignees of the Parties.

12.18 Interpretation of Agreement; Status of Parties

This Agreement is the result of arm's-length negotiations between the Parties and shall not be construed against any Party by reason of its preparation of this Agreement. Nothing contained in this Agreement shall be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the Parties.

12.19 Future Assurances

Each of the Parties shall promptly execute and deliver such additional documents and shall do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

12.20 Capacity to Execute; Mutual Representations

The Parties each warrant and represent to the others that this Agreement constitutes a legal, valid, and binding obligation of that Party. Without limiting the generality of the foregoing, the Agency represents that its governing authority has authorized the execution, delivery, and performance of this Agreement by it. The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting. Each Party represents to the others that neither the execution and delivery of the Agreement, nor the consummation of the transactions contemplated hereby will: violate any constitution, statute, regulation, rule, injunction, judgment, order, decree, ruling, charge, or other restriction of any government, government agency, or court to which it is subject or any provision of its charter or bylaws; or conflict with, result in a breach of, or constitute a default under any other agreement to which it is a Party or by which it is bound. No Party needs to give any notice to, make any filing with, or obtain the consent of any other entity or person to consummate the transaction contemplated by this Agreement.

12.21 Exhibits

The Exhibits attached to this Agreement are an integral part of this Agreement and are fully incorporated into this Agreement where they are referenced in the text of this Agreement.

12.22 Statutory Disclaimer

THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. 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, THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

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

TROUTDALE URBAN RENEWAL AGENCY
the duly authorized and acting urban renewal agency
of the City of Troutdale, Oregon

BY: 

Name: Paul Thalhofer

Title: Chair

EASTWIND DEVELOPMENT LLC
an Oregon limited liability company

BY: 

Name: Matt Guthrie

Title: President Yoshida Properties Inc. (managing company)

EXHIBITS

Exhibit A – Aerial Photo of Development Site

A-1 – Legal Description of Agency Property

A-2 – Legal Description of Eastwind Property

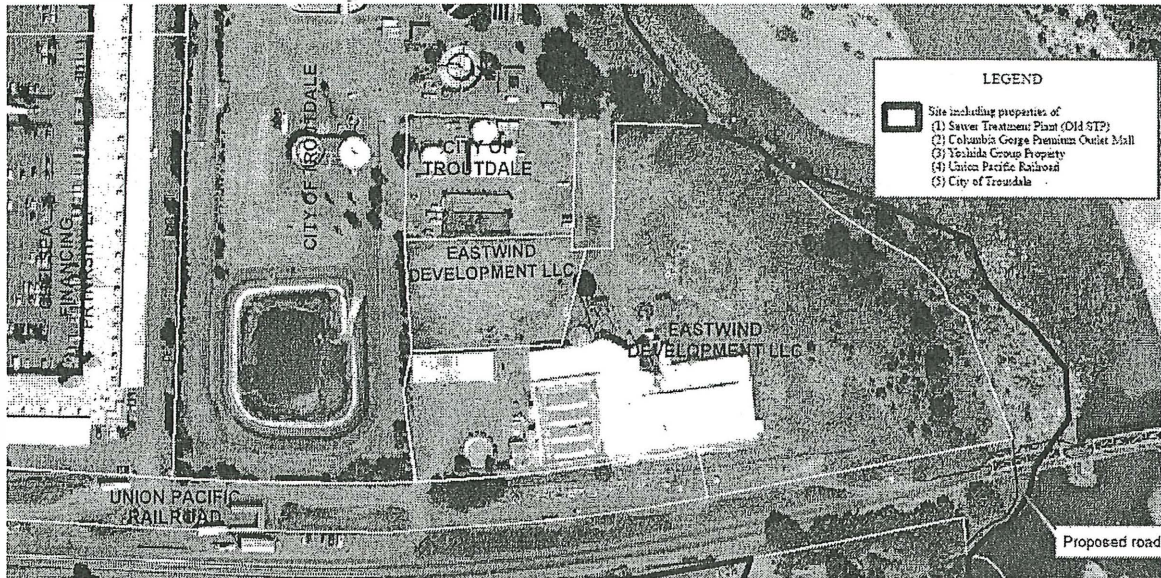
Exhibit B – Schedule

Exhibit C – Glossary of Defined Terms

EXHIBIT A

AERIAL PHOTO OF DEVELOPMENT SITE

Close-in View



Entire Area

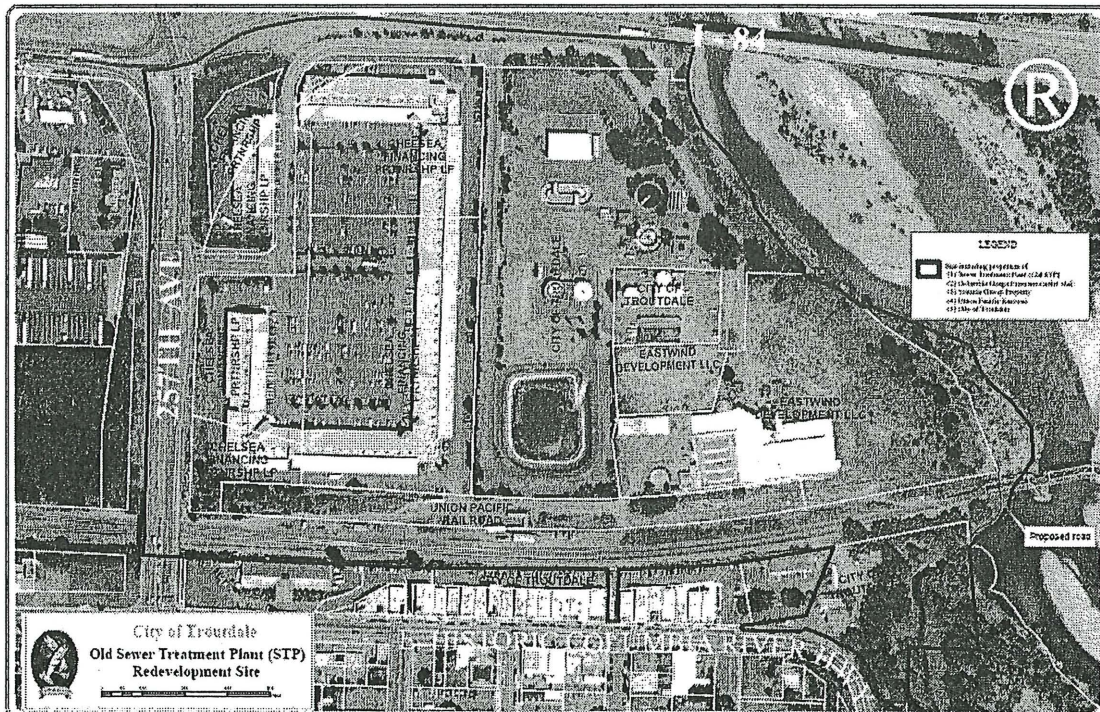


EXHIBIT A-1

LEGAL DESCRIPTION OF AGENCY PROPERTY

Real property in the County of Multnomah, State of Oregon, described as follows:

PARCEL 1:

PARCEL I:

A PARCEL OF LAND LOCATED WITHIN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, MULTNOMAH COUNTY, STATE OF OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON SECTION CORNER TO SECTIONS 23, 24, 25, AND 26, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, SAID CORNER BEING MARKED BY A BRASS CAP; THENCE NORTH 89° 56' 35" EAST ALONG THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM A DISTANCE OF 748.00 FEET TO A STONE; THENCE SOUTH 10° 14' 13" EAST A DISTANCE OF 1,524.26 FEET TO A 1 1/2-INCH DIAMETER IRON PIPE LOCATED AT THE NORTHEAST CORNER OF THE TRACT OF LAND CONVEYED TO Z. T. TRUELOVE BY DEED DATED MAY 26, 1920, AND RECORDED JUNE 10, 1920, IN BOOK 815, AT PAGE 232 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 68° 42' 42" EAST A DISTANCE OF 424.58 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD SET AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO CECIL E. DUNCAN AND DONALD L. BENNETT BY THAT WARRANTY DEED RECORDED JANUARY 26, 1983, IN BOOK 1642, AT PAGE 514 OF THE MULTNOMAH COUNTY DEED RECORDS, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO H. C. MCGINNIS BY THAT BARGAIN AND SALE DEED RECORDED APRIL 22, 1943, IN BOOK 744, AT PAGE 188 OF THE MULTNOMAH COUNTY DEED RECORDS, AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 00° 24' 36" EAST ALONG THE WEST LINE OF THE SAID DUNCAN AND BENNETT TRACT A DISTANCE OF 25.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE NORTH 89° 59' 35" EAST ALONG THE NORTH LINE THEREOF, A DISTANCE OF 447.01 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 09° 15' 37" EAST ALONG THE EAST LINE THEREOF A DISTANCE OF 25.33 TO THE SOUTHEAST CORNER THEREOF, SAID CORNER ALSO BEING THE NORTHEAST CORNER OF THE SAID H. C. MCGINNIS TRACT, SAID CORNER BEING MARKED BY A 3/4-INCH DIAMETER IRON PIPE; THENCE SOUTH 89° 59' 35" WEST ALONG THE SOUTH LINE OF THE SAID DUNCAN AND BENNETT TRACT AND THE NORTH LINE OF THE SAID H. C. MCGINNIS TRACT A DISTANCE OF 451.27 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL II:

A PARCEL OF LAND LOCATED WITHIN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, MULTNOMAH COUNTY, STATE OF OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON SECTION CORNER TO SECTIONS 23, 24, 25, AND 26, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, SAID CORNER BEING MARKED BY A BRASS CAP; THENCE NORTH 89° 56' 35" EAST ALONG THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM A DISTANCE OF 748.00 FEET TO A STONE: THENCE SOUTH 10° 14' 13" EAST A DISTANCE OF 1,524.26 FEET TO A 1 1/2-INCH DIAMETER IRON PIPE LOCATED AT THE NORTHEAST CORNER OF THE TRACT OF LAND CONVEYED TO Z. T.

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TRUELOVE BY DEED DATED MAY 26, 1920, AND RECORDED JUNE 10, 1920, IN BOOK 815, AT PAGE 232 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 68° 42' 42" EAST A DISTANCE OF 424.58 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD SET AT THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO CECIL E. DUNCAN AND DONALD L. BENNETT BY THAT WARRANTY DEED RECORDED JANUARY 26, 1983, IN BOOK 1642, AT PAGE 514 OF THE MULTNOMAH COUNTY DEED RECORDS, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO H. C. MCGINNIS BY THAT BARGAIN AND SALE DEED RECORDED APRIL 22, 1943, IN BOOK 744, AT PAGE 188 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 89° 59' 35" EAST ALONG THE SOUTH LINE OF THE SAID DUNCAN AND BENNETT TRACT AND THE NORTH LINE OF THE SAID H. C. MCGINNIS TRACT A DISTANCE OF 451.27 FEET TO A 3/4-INCH IRON PIPE AT THE NORTHEAST CORNER OF THE SAID MCGINNIS TRACT AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION, SAID POINT FURTHER BEING THE SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO THE STATE OF OREGON BY QUITCLAIM DEED RECORDED AUGUST 23, 1946, IN BOOK 1091, AT PAGE 447 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 89° 59' 35" EAST ALONG THE SOUTH LINE OF THE SAID STATE OF OREGON TRACT A DISTANCE OF 37.30' TO A POINT THAT IS AT THE WEST WATER'S EDGE OF THE SANDY RIVER AS LOCATED NOVEMBER 29, 1983; THENCE ALONG THE FOLLOWING COURSES AND DISTANCES FOLLOWING SAID WEST WATER'S EDGE SOUTH 7° 24' 19" EAST FOR A DISTANCE OF 15.94 FEET; SOUTH 16° 38' 22" EAST FOR A DISTANCE OF 38.02 FEET; SOUTH 33° 09' 01" EAST FOR A DISTANCE OF 21.88 FEET; SOUTH 40° 50' 27" EAST FOR A DISTANCE OF 32.53 FEET; SOUTH 35° 02' 59" EAST FOR A DISTANCE OF 36.26 FEET; SOUTH 46° 26' 13" EAST FOR A DISTANCE OF 12.82 FEET; SOUTH 35° 03' 31" EAST FOR A DISTANCE OF 35.89 FEET; SOUTH 36° 18' 27" EAST FOR A DISTANCE OF 38.76 FEET; SOUTH 21° 30' 34" EAST FOR A DISTANCE OF 46.76 FEET; SOUTH 38° 52' 07" EAST FOR A DISTANCE OF 24.08 FEET; SOUTH 37° 01' 47" EAST FOR A DISTANCE OF 29.76 FEET; SOUTH 39° 40' 57" EAST FOR A DISTANCE OF 32.50 FEET; SOUTH 29° 10' 17" EAST FOR A DISTANCE OF 39.99 FEET; SOUTH 38° 59' 56" EAST FOR A DISTANCE OF 41.94 FEET; SOUTH 31° 16' 45" EAST FOR A DISTANCE OF 29.20 FEET; SOUTH 43° 32' 12" EAST FOR A DISTANCE OF 20.95 FEET; SOUTH 51° 03' 3 4" EAST FOR A DISTANCE OF 28.46 FEET; SOUTH 61° 23' 15" EAST FOR A DISTANCE OF 26.78 FEET; SOUTH 57° 13' 08" EAST FOR A DISTANCE OF 1.81 FEET; THENCE LEAVING SAID WEST WATER'S EDGE SOUTH 89° 59' 35" WEST A DISTANCE OF 167.68 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD, SAID POINT BEING THE MOST EASTERLY ANGLE POINT IN SAID H. C. MCGINNIS TRACT; THENCE NORTH 27° 08' 50" WEST ALONG THE EASTERLY LINE OF SAID MCGINNIS TRACT A DISTANCE OF 355.10 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD SET AT AN ANGLE POINT IN THE EAST LINE OF THE SAID MCGINNIS TRACT; THENCE NORTH 09° 15' 37" WEST ALONG THE EAST LINE OF THE SAID MCGINNIS TRACT A DISTANCE OF 130.30 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

RESERVING THEREFROM ALL OF THE ABOVE DESCRIBED LANDS LYING BETWEEN THE SAID WEST WATER'S EDGE OF THE SANDY RIVER AND WESTERLY THEREFROM TO THE LOW WATER MARK ON THE WEST BANK OF THE SAID SANDY RIVER.

TOGETHER WITH ALL OF THE LANDS BETWEEN THE SAID WEST WATER'S EDGE OF THE SANDY RIVER AND EASTERLY TO THE LOW WATER MARK ON THE WEST BANK OF THE SAID SANDY RIVER.

PARCEL III:

A PARCEL OF LAND LOCATED WITHIN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, MULTNOMAH COUNTY, STATE OF OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON SECTION CORNER TO SECTIONS 23, 24, 25 AND 26, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, SAID CORNER BEING MARKED BY A BRASS CAP; THENCE NORTH 89° 56' 35" EAST ALONG THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM, A DISTANCE OF 748.00 FEET TO A STONE; THENCE SOUTH 10° 14' 13" EAST A DISTANCE OF 1,524.26 FEET TO A 1 1/2-INCH DIAMETER IRON PIPE LOCATED AT THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO Z. T. TRUELOVE BY DEED DATED MAY 26, 1920, AND RECORDED JUNE 10, 1920, IN BOOK 815, AT PAGE 232 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 68° 42' 42" EAST A DISTANCE OF 424.58 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD LOCATED AT THE NORTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO H. C. MCGINNIS BY THAT BARGAIN AND SALE DEED RECORDED APRIL 22, 1943, IN BOOK 744, AT PAGE 188 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 89° 59' 35" EAST ALONG THE NORTH LINE OF THE SAID MCGINNIS TRACT A DISTANCE 451.27 FEET TO THE NORTHEAST CORNER THEREOF, SAID CORNER BEING MARKED BY A 3/4-INCH DIAMETER IRON PIPE; THENCE SOUTH 9° 15' 37" EAST ALONG THE EAST LINE OF THE SAID MCGINNIS TRACT A DISTANCE OF 130.30 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD SET AT AN ANGLE CORNER THEREIN; THENCE SOUTH 27° 08' 50" EAST CONTINUING ALONG THE EAST LINE OF THE SAID MCGINNIS TRACT A DISTANCE OF 355.10 FEET TO A 5/8-INCH DIAMETER BY 30-INCH IRON ROD SET AT THE MOST EASTERLY CORNER OF THE SAID MCGINNIS TRACT AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00° 01' 38" EAST A DISTANCE OF 185.92 FEET; THENCE SOUTH 35° 36' 40" WEST A DISTANCE OF 39.87 FEET TO A POINT ON THE MOST EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED WITHIN PARCEL III OF THAT EXECUTOR DEED TO THE TOWN OF TROUTDALE RECORDED AUGUST 3, 1970, IN BOOK 745, AT PAGE 580 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 11° 51' 20" EAST ALONG THE EASTERLY LINE OF THE SAID TOWN OF TROUTDALE PARCEL III AND ITS NORTHERLY EXTENSION A DISTANCE OF 193.09 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL IV:

A PARCEL OF LAND LOCATED WITHIN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, MULTNOMAH COUNTY, STATE OF OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON SECTION CORNER TO SECTIONS 23, 24, 25, AND 26, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, SAID CORNER BEING MARKED BY A BRASS CAP; THENCE NORTH 89° 56' 36" EAST ALONG THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM A DISTANCE OF 748.00 FEET TO A STONE; THENCE SOUTH 10° 14' 13" EAST A DISTANCE OF 1,524.26 FEET TO A 1 1/2-INCH DIAMETER IRON PIPE LOCATED AT THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO Z. T. TRUELOVE BY DEED DATED MAY 26, 1920, AND RECORDED JUNE 10, 1920, IN BOOK 815, AT PAGE 232 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 56° 28' 34" EAST A DISTANCE OF 853.87 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD; THENCE SOUTH 03° 35' 32" EAST A DISTANCE OF 180.60 FEET TO A POINT ON THE WESTERLY EAST LINE OF PARCEL III AS DESCRIBED IN THAT EXECUTOR'S DEED WITHIN WHICH LANDS WERE CONVEYED TO THE TOWN OF TROUTDALE AS RECORDED AUGUST 3, 1970, IN BOOK 745, AT PAGE 580 OF THE MULTNOMAH COUNTY DEED RECORDS, AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 03° 35' 32" EAST A DISTANCE OF 180.26 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG IRON ROD LOCATED AT THE SOUTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO THE CITY OF TROUTDALE BY DEED RECORDED MARCH 27, 1969, IN BOOK 669, AT PAGE 824 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE NORTH 08° 32' 01" WEST ALONG THE EAST LINE OF THE SAID CITY OF TROUTDALE PARCEL A DISTANCE OF 138.00 FEET TO A 5/8-INCH DIAMETER BY 30-INCH LONG

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IRON ROD SET AT THE MOST NORTHERLY CORNER OF THE SAID CITY OF TROUTDALE TRACT, SAID CORNER BEING ON THE WESTERLY EAST LINE OF THE SAID TOWN OF TROUTDALE TRACT; THENCE NORTH 11° 56' 24" EAST ALONG THE WESTERLY EAST LINE OF THE SAID TOWN OF TROUTDALE TRACT A DISTANCE OF 44.39 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 2:

PARCEL I:

A PART OF THE DAVID F. BUXTON DONATION LAND CLAIM IN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

COMMENCING AT A STONE IN THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM, SAID STONE BEING NORTH 89° 57' EAST 748 FEET DISTANT FROM THE SECTION CORNER COMMON TO SECTIONS 23, 24, 25, AND 26, SAID TOWNSHIP AND RANGE; THENCE SOUTH 0° 23' WEST 1346 FEET TO AN IRON PIPE; THENCE EAST 675.33 FEET TO AN IRON PIPE AND THE TRUE POINT OF BEGINNING OF THE LAND HEREIN TO BE DESCRIBED; THENCE SOUTH 0° 23' WEST 345.34 FEET TO AN IRON PIPE; THENCE EAST 586.45 FEET TO AN IRON PIPE; THENCE NORTH 27° 18' WEST 244.11 FEET TO AN IRON PIPE; THENCE NORTH 9° 24' WEST 130.17 FEET TO AN IRON PIPE; THENCE WEST 450.92 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL II:

A TRACT OF LAND SITUATED IN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACT BEGINNING AT THE COMMON CORNER OF SECTIONS 23, 24, 25, 26, SAID TOWNSHIP AND RANGE AND RUNNING THENCE NORTH 89° 57' EAST 748 FEET TO A STONE IN THE NORTH LINE OF DAVID F. BUXTON DONATION LAND CLAIM; THENCE SOUTH 0° 23' WEST 1346 FEET TO A POINT; THENCE SOUTH 61° 11' EAST 319.44 FEET TO THE NORTHEAST CORNER OF A TRACT CONVEYED TO Z. T. TRUE LOVE, BY DEED DATED MAY 26, 1920 AND RECORDED JUNE 10, 1920 IN BOOK 815, PAGE 232, DEED RECORDS; THENCE SOUTH 0° 23' WEST, ALONG THE EAST LINE OF SAID TRUELOVE TRACT, 191.36 FEET TO AN IRON PIPE; THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE SOUTH 0° 23' WEST ALONG SAID EAST LINE OF TRUELOVE TRACT, 640.05 FEET TO A POINT IN THE NORTH LINE OF THE O. W. R. & N. CO. RIGHT OF WAY; THENCE SOUTH 88° 44' EAST ALONG SAID NORTH RIGHT OF WAY LINE, 394.45 FEET; THENCE NORTH 0° 23' EAST 634 FEET TO THE SOUTHEAST CORNER OF A TRACT HERETOFORE CONVEYED TO ALBERT GEORGE BROUN AND MAY ANN BROUN, BY DEED DATED APRIL 1, 1944, RECORDED IN BOOK 826, PAGE 30, DEED RECORDS; THENCE WEST, ALONG THE SOUTH LINE OF SAID BROUN TRACT, 394.42 FEET TO THE POINT OF BEGINNING.

PARCEL III:

A TRACT OF LAND SITUATED IN SECTION 25, TOWNSHIP 1 NORTH RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF MULTNOMAH AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CORNER OF SECTIONS 23, 24, 25, AND 26, SAID TOWNSHIP AND RANGE, ON THE NORTH LINE OF THE D. F. BUXTON DONATION LAND CLAIM; THENCE NORTH

89° 57' EAST, ON THE NORTH LINE OF SAID D. F. BUXTON DONATION LAND CLAIM, 748 FEET TO A STONE; THENCE SOUTH 0° 23' WEST 1343.82 FEET, MORE OR LESS, TO A 2" X 36" PIPE; THENCE SOUTH 61° 11' EAST 398.04 FEET, TO A 1¼" X 34" PIPE; THENCE SOUTH 49° 01' EAST 96.72 FEET TO A 1¼" X 32" PIPE; THENCE SOUTH 57° 27½' EAST 49.45 FEET TO A 1" X 38" PIPE; THENCE SOUTH 66° 46' 30" EAST 216.40 FEET TO A 1" X 26" PIPE; THENCE SOUTH 74° 31' 25" EAST 10.94 FEET TO A POINT FOR THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; RUNNING THENCE SOUTH 0° 23' WEST 623.96 FEET TO A POINT IN THE NORTH LINE OF THE O. W. R. & N. CO.'S RIGHT OF WAY; THENCE SOUTH 88° 44' EAST ON SAID RIGHT OF WAY LINE; 117.71 FEET TO A POINT OF CURVE; THENCE ON A CURVE TO THE LEFT OF 2740 FOOT RADIUS, 186.78 FEET TO A 1" X 37" IRON ROD; THENCE NORTH 11° 55' EAST 202.3 FEET TO A 1" X 36" PIPE; THENCE NORTH 86° 04' EAST 225 FEET TO A 1" X 35" PIPE; THENCE NORTH 11° 50' EAST 317.17 FEET TO A ¾" X 26" PIPE, AT A POINT, SAID POINT BEING THE MOST SOUTHERLY CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO H. C. MCGINNIS, BY DEED RECORDED APRIL 22, 1943 IN BOOK 744, PAGE 188, DEED RECORDS; THENCE NORTH 14°19' EAST 24.34 FEET; THENCE NORTH 27° 18' WEST 110.89 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THAT CERTAIN TRACT OF LAND CONVEYED TO LLOYD STANLEY HOLMAN AND WIFE, BY DEED RECORDED AUGUST 9, 1957 IN BOOK 1856, PAGE 394, DEED RECORDS; THENCE WEST 586.45 FEET, ALONG THE SOUTHERLY LINE OF SAID HOLMAN TRACT, TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH 0° 23' WEST 24.82 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM the following:

A PARCEL OF LAND LOCATED WITHIN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF TROUTDALE, COUNTY OF MULTNOMAH AND STATE OF OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON SECTIONS CORNER TO SECTIONS 23, 24, 25 AND 26, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, SAID CORNER BEING MARKED BY A BRASS CAP; THENCE NORTH 89° 56' 35" EAST ALONG THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM A DISTANCE OF 748.00 FEET TO A STONE; THENCE SOUTH 10° 14' 13" EAST A DISTANCE OF 1524.26 FEET TO A 1-1/2 12 INCH DIAMETER IRON PIPE LOCATED AT THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO Z.T. TRUELOVE BY DEED DATED MAY 26, 1920, AND RECORDED JUNE 10, 1920, IN BOOK 815, PAGE 232 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 56° 28' 34" EAST A DISTANCE OF 863.87 FEET TO A 5/8 INCH DIAMETER BY A 30 INCH LONG IRON ROD AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 86° 13' 49" EAST A DISTANCE OF 245.52 FEET TO A 5/8 INCH DIAMETER BY 30 INCH LONG IRON ROD; THENCE CONTINUING NORTH 86° 13' 49" EAST A DISTANCE OF 4.80 FEET; THENCE SOUTH 00° 01' 38" EAST A DISTANCE OF 20.04 FEET; THENCE NORTH 86° 13' 49" EAST A DISTANCE OF 20.29 FEET TO A POINT ON THE MOST EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED AS PARCEL III IN THAT EXECUTOR'S DEED TO THE TOWN OF TROUTDALE RECORDED AUGUST 3, 1970 IN BOOK 745, PAGE 580 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 11° 51' 20" WEST ALONG THE MOST EASTERLY LINE OF SAID TOWN OF TROUTDALE PARCEL A DISTANCE OF 151.52 TO A 5/8 INCH DIAMETER INCH BY 30 INCH LONG IRON ROD SET AN ANGLE POINT IN SAID TOWN OF TROUTDALE PARCEL; THENCE SOUTH 86° 11' 58" WEST ALONG THE SOUTHERLY LINE OF THE SAID TOWN OF TROUTDALE PARCEL A DISTANCE OF 224.95 FEET TO A 5/8 INCH DIAMETER BY 30 INCH LONG IRON ROD SET AT AN ANGLE POINT IN THE TOWN OF TROUTDALE PARCEL; THENCE SOUTH 11° 56' 24" WEST ALONG THE WESTERLY EAST LINE OF THE SAID TOWN OF TROUTDALE PARCEL A DISTANCE OF 15.13 FEET; THENCE NORTH 03° 35' 32" WEST A DISTANCE OF 180.60 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

Tax Parcel Number: R320520 and R320650

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EXHIBIT A-2

LEGAL DESCRIPTION OF EASTWIND PROPERTY

Real property in the County of Multnomah, State of Oregon, described as follows:

PARCEL 1: ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TROUTDALE, COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

THAT PORTION OF THE FOLLOWING DESCRIBED PROPERTY LYING SOUTH OF THE SOUTH LIEN OF A TRACT OF LAND CONVEYED TO THE STATE OF OREGON BY DEED RECORDED AUGUST 23, 1946 IN BOOK 1091, PAGE 447 OF DEED RECORDS, EXCEPTING THEREFROM A TRIANGLE AT THE SOUTHWEST CORNER THEREFROM CONVEYED TO THE CITY OF TROUTDALE BY DEED RECORDED MARCH 27, 1969 IN BOOK 669, PAGE 824 OF DEED RECORDS.

A TRACT OF LAND PARTIALLY IN THE CITY OF TROUTDALE , COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT AT LOW WATER MARK ON THE WEST BANK OF THE SANDY RIVER, WHICH POINT IS ON THE LINE BETWEEN SECTIONS 24 AND 25, TOWNSHIP 1 NORTH , RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, THE SAME BEING 1606-1/2 FEET EAST OF THE CORNER TO SECTIONS 23, 24, 25 AND 26; THENCE SOUTHEASTERLY ALONG THE LOW WATER MARK IN SAID SANDY RIVER TO A POINT IN THE NORTH LINE OF THE OREGON RAILWAY AND NAVIGATION COMPANY'S RIGHT-OF-WAY; THENCE SOUTH 77° 45' WEST 400 FEET ALONG SAID RIGHT-OF-WAY; THENCE NORTH 12° 15' WEST 75 FEET ALONG THE O.R. AND N. COL'S DEPOT GROUNDS; THENCE FOLLOWING THE NORTH LINE OF DEPOT GROUNDS AS FOLLOWS: SOUTH 77° 45' WEST 21 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 2740 FEET 462-7/10 FEET TO AN IRON ROD DRIVEN IN THE GROUND AT THE SOUTHWEST CORNER OF A ONE-ACRE TRACT OF LAND; THENCE NORTH 11° 41' EAST 198.71/100 FEET TO THE NORTHWEST CORNER OF A ONE-ACRE TRACT; THENCE NORTH 85° 40' EAST 225 FEET; THENCE NORTH 11° 35' EAST 354-4/10 FEET; THENCE NORTH 28° 09' WEST 350 FEET; THENCE NORTH 9° 39' WEST 350 FEET; THENCE NORTH 23° 24' WEST 100 FEET; THENCE NORTH 20° 09' WEST 250 FEET; THENCE NORTH 32° 39' WEST 150 FEET; THENCE 25° 53' WEST 50 FEET; THENCE NORTH 19° 28' WEST 250 FEET; THENCE NORTH 19° 36' WEST 200 FEET; THENCE NORTH 5° 39' WEST 186/310 FEET TO A STONE MONUMENT IN THE LINE BETWEEN SECTIONS 24 AND 25 LOCATED 1456- 1/2 FEET EAST OF THE CORNER TO SECTIONS 23, 24, 25 AND 26; THENCE EAST ON SECTION LINE 150 FEET TO THE PLACE OF BEGINNING, ALL LYING SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN.

EXCEPTING THEREFROM PARCELS I, II, III AND IV, AS DESCRIBED IN THE DEED FROM MARIE I. BENNETT TO THE CITY OF TROUTDALE, RECORDED NOVEMBER 26, 1986 IN BOOK 1958, PAGE 1229.

PARCEL 2: A PARCEL OF LAND LOCATED WITHIN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE CITY OF TROUTDALE, COUNTY OF MULTNOMAH AND STATE OF OREGON, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON SECTIONS CORNER TO SECTIONS 23, 24, 25 AND 26, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, SAID CORNER BEING MARKED BY A BRASS CAP; THENCE NORTH 89° 56' 35" EAST ALONG THE NORTH LINE OF THE DAVID F. BUXTON DONATION LAND CLAIM A DISTANCE OF 748.00 FEET TO A STONE; THENCE SOUTH 10° 14' 13" EAST A DISTANCE OF 1524.26 FEET TO A 1-1/2 12 INCH DIAMETER IRON PIPE LOCATED AT THE NORTHEAST CORNER OF THAT TRACT OF LAND CONVEYED TO Z.T.

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TRUELOVE BY DEED DATED MAY 26, 1920, AND RECORDED JUNE 10, 1920, IN BOOK 815, PAGE 232 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 56° 28' 34" EAST A DISTANCE OF 863.87 FEET TO A 5/8 INCH DIAMETER BY A 30 INCH LONG IRON ROD AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 86° 13' 49" EAST A DISTANCE OF 245.52 FEET TO A 5/8 INCH DIAMETER BY 30 INCH LONG IRON ROD; HENCE CONTINUING NORTH 86° 13' 49" EAST A DISTANCE OF 4.80 FEET; THENCE SOUTH 00° 01' 38" EAST A DISTANCE OF 20.04 FEET; THENCE NORTH 86° 13' 49" EAST A DISTANCE OF 20.29 FEET TO A POINT ON THE MOST EASTERLY LINE OF THAT TRACT OF LAND DESCRIBED AS PARCEL III IN THAT EXECUTOR'S DEED TO THE TOWN OF TROUTDALE RECORDED AUGUST 3, 1970 IN BOOK 745, PAGE 580 OF THE MULTNOMAH COUNTY DEED RECORDS; THENCE SOUTH 11° 51' 20" WEST ALONG THE MOST EASTERLY LINE OF SAID TOWN OF TROUTDALE PARCEL A DISTANCE OF 151.52 TO A 5/8 INCH DIAMETER INCH BY 30 INCH LONG IRON ROD SET AN ANGLE POINT IN SAID TOWN OF TROUTDALE PARCEL; THENCE SOUTH 86° 11' 58" WEST ALONG THE SOUTHERLY LINE OF THE SAID TOWN OF TROUTDALE PARCEL A DISTANCE OF 224.95 FEET TO A 5/8 INCH DIAMETER BY 30 INCH LONG IRON ROD SET AT AN ANGLE POINT IN THE TOWN OF TROUTDALE PARCEL; THENCE SOUTH 11° 56' 24" WEST ALONG THE WESTERLY EAST LINE OF THE SAID TOWN OF TROUTDALE PARCEL A DISTANCE OF 15.13 FEET; THENCE NORTH 03° 35' 32" WEST A DISTANCE OF 180.60 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

PARCEL 3: A PARCEL OF LAND IN THE CITY OF TROUTDALE, COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT A STONE MONUMENT IN THE NORTH LINE OF THE D.F. BUXTON DONATION LAND CLAIM, NORTH 89° 57' EAST 228 FEET FROM A STONE MONUMENT AT THE CORNER COMMON TO SECTIONS 23, 24, 25 AND 26 IN TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN; THENCE RUNNING SOUTH 00 ° 23° WEST 2486.33 FEET TO A POINT IN THE SOUTH LINE OF O.W.R & N. COMPANY RIGHT OF WAY, WHICH IS THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE WESTERLY ALONG THE SOUTH LINE OF THE O.W.R. & N. RIGHT OF WAY 50 FEET TO A POINT; THENCE SOUTH 00° 23' WEST 140 FEET, MORE OR LESS, TO A POINT IN THE NORTH BOUNDARY LINE OF THE SANDY ROAD; THENCE EASTERLY, FOLLOWING THE NORTH BOUNDARY OF THE SANDY ROAD, 50 FEET TO A POINT; THENCE NORTH 00° 23' EAST 140 FEET, MORE OR LESS, TO THE O.W.R. & N. COMPANY RIGHT OF WAY AND TRUE POINT OF BEGINNING, AND BEING IN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN.

PARCEL 3: A PARCEL OF LAND IN THE CITY OF TROUTDALE, COUNTY OF MULTNOMAH AND STATE OF OREGON, DESCRIBED AS FOLLOWS:

BEGINNING AT A STONE MONUMENT IN THE NORTH LINE OF THE D.F BUXTON DONATION LAND CLAIM, NORTH 89° 57' EAST 228 FEET FROM A STONE MONUMENT AT THE CORNER COMMON TO SECTIONS 23, 24, 25 AND 26 IN TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN; THENCE RUNNING SOUTH 23° WEST 2486.33 FEET TO A POINT IN THE SOUTH LINE OF O.W.R & N. COMPANY RIGHT OF WAY, WHICH IS THE TRUE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE WESTERLY ALONG THE SOUTH LINE OF O.W.R & N. RIGHT OF WAY 50 FEET TO A POINT; THENCE SOUTH 00° 23' WEST 140 FEET, MORE OR LESS, TO A POINT IN THE NORTH BOUNDARY LINE OF THE SANDY ROAD; THENCE EASTERLY, FOLLOWING THE NORTH BOUNDARY OF THE SANDY ROAD, 50 FEET TO A POINT; THENCE NORTH 00° 23' EAST 140 FEET, MORE OR LESS, TO THE O.W.R. & N. COMPANY RIGHT OF WAY AND TRUE POINT OF BEGINNING, AND BEING IN SECTION 25, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN.

Tax Parcel Number: R320485 and R320654

EXHIBIT B

SCHEDULE

ACTION	LATEST DATE
EW grants City Option: Effective Date	Day 1
EW delivers title report and title exceptions to Agency	Day 30
Agency response to title report and exceptions	20 days after EW delivery
EW reply to Agency response to title report	20 days after Agency response
Notice to Exercise Option with notification of Estimated Closing Date, and demolition requirements for water tower and well	10 days after Developer DDA executed
Agency delivers drafts of Deed, Purchase Price Note, to EW (if necessary)	10 days after Developer DDA executed
Agency/EW agree to form of documents	Not later than 30 days prior to Estimated Closing Date
EW completes environmental remediation of EW buildings	Not later than 30 days prior to Estimated Closing Date
EW completes demolition of EW buildings and other structures pursuant to Section 6	Not later than 30 days prior to Estimated Closing Date
Closing of purchase/sale of EW Property	Estimated Closing Date, unless extended by Parties' mutual agreement
Last day for Agency to give notice of request to extend Option Period	450 days after the Chelsea Option Effective Date
Termination of Option Period if Option not extended or exercised	540 days after the Chelsea Option Effective Date

EXHIBIT C

GLOSSARY

1. “**Agency Property**” means the real property owned by the Agency shown on Exhibit A, and legally described in Exhibit A-1.
2. “**Agreement**” means this agreement between Agency and Eastwind for the Agency’s acquisition of the Eastwind Property on the terms and conditions stated herein.
3. “**Business Day**” has the meaning set forth in Section 12.11.
4. “**Chelsea Option Effective Date**” means the effective date of the option for Agency or the City to purchase right-of-way land from Chelsea Property Group, Inc. which right-of-way shall connect the Development Site to the public right-of-way at 257th Way.
5. “**City**” means the City of Troutdale, Oregon, a municipal corporation of the State of Oregon.
6. “**Closing**” means Eastwind’s conveyance of the Eastwind Property to the Agency upon the terms and conditions described in this Agreement.
7. “**Deed**” means Eastwind’s Warranty Deed conveying the Eastwind Property to the Agency.
8. “**Developer DDA**” means an agreement between the Agency and the Selected Developer for the disposition and development of the Developer Parcel.
9. “**Developer Parcel**” means that portion of the Development Site that the Selected Developer is obligated to acquire and develop pursuant to the Developer DDA. The Developer Parcel will not include the portion of the Development Site that will remain in public ownership pursuant to the Developer DDA.
10. “**Development Site**” means the Eastwind Property and the Agency Property.
11. “**Eastwind DDA**” has the meaning set forth in Section 2.4.
12. “**Eastwind Property**” means the real property owned by Eastwind shown on Exhibit A, and legally described in Exhibit A-2.
13. “**Effective Date**” is the date of execution of the Agreement as shown on page 1 of the Agreement.

14. **“Environmental Laws”** means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*; the Federal Water Pollution Control Act, U.S.C. §§ 1251 *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1471 *et seq.*; Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*; Refuse Act, 33 U.S.C. §§ 407 *et seq.*; Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 11001 *et seq.*; Occupational Safety and Health Act, 29 U.S.C. §§ 65 *et seq.*, to the extent it includes the emission of any Hazardous Material; Federal Insecticide, Fungicide, and Rodenticide Act, Federal Pesticide Act of 1978, 7 U.S.C. §§ 136 *et seq.*; Federal Safe Drinking Water Act, 42 U.S.C. §§ 300(f) *et seq.*; or any similar or analogous state or local statute or ordinance, or any regulation, order, rule, or requirement adopted thereunder which regulates Hazardous Substances.
15. **“Escrow Agent”** means First American Title Insurance Company of Oregon, 222 S.W. Columbia Street, Suite 400, Portland, OR.
16. **“Estimated Closing Date”** means the date for Closing that the Agency specifies in the Notice to Exercise Option, which date shall be not sooner than one hundred twenty (120) days after the date the Agency gives the Notice to Exercise Option.
17. **“Final Termination Date”** has the meaning set forth in Section 2.4.
18. **“Full Vision Plan”** has the meaning set forth in Recital C.
19. **“Hazardous Building Material Survey”** or **“HBMS”** means the survey of several buildings on the Development Site to evaluate for the presence of Hazardous Substances, dated May 12, 2006 and conducted by Kleinfelder, Inc.
20. **“Hazardous Substances”** means any substance, chemical, waste or other material which is listed, defined or otherwise identified as “hazardous” or “toxic” under any federal, state local or administrative agency law or ordinance (collectively “Environmental Laws”) including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*; the Federal Water Pollution Control Act, U.S.C. §§ 1251 *et seq.*; the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1471 *et seq.*; Toxic Substances Control Act, 15 U.S.C. §§ 2601 *et seq.*; Refuse Act, 33 U.S.C. §§ 407 *et seq.*; Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 11001 *et seq.*; Occupational Safety and Health Act, 29 U.S.C. §§ 65 *et seq.*, to the extent it includes the emission of any Hazardous Material and includes any Hazardous Material for which hazard communication standards have been established; Federal Insecticide, Fungicide, and Rodenticide Act, Federal

Pesticide Act of 1978, 7 U.S.C. §§ 136 *et seq.*; Federal Safe Drinking Water Act, 42 U.S.C. §§ 300(f) *et seq.*; or any similar or analogous state or local statute or ordinance, or any regulation, order, rule, or requirement adopted thereunder, as well as any formaldehyde, urea, polychlorinated biphenyls, petroleum, petroleum product or by-product, crude oil, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixture thereof, radon, asbestos, and “source,” “special nuclear” and “by-product” material as defined in the Atomic Energy Act of 1985, 42 U.S.C. §§ 3011 *et seq.*

21. “**Legal Holiday**” has the meaning set forth in Section 12.11.
22. “**Notice to Exercise Option**” has the meaning set forth in Section 2.4.
23. “**Option**” means the Agency’s right to acquire the Eastwind Property pursuant to the terms of the Agreement.
24. “**Option Period**” has the meaning set forth in Section 2.2.
25. “**Option Termination Date**” means the date, prior to the Option Final Termination Date, that the Agreement is terminated by action of a Party or the Parties, or by the occurrence of an event which terminates this Agreement by its terms.
26. “**Party**” means either the Agency or Eastwind. “**Parties**” means the Agency and Eastwind, jointly.
27. “**Permitted Exceptions**” has the meaning set forth in Section 3.2.1.
28. “**Phase I ESA**” means the Phase I environmental site assessment conducted by Kleinfelder, Inc., titled, *Phase I Environmental Site Assessment, City of Troutdale & Eastwind Development LLC Parcels, 410, 320, & 302 NW 257th Way/ NE Harlow Road, Tax Lots 400, 500,100, & 600, Troutdale, Oregon, Kleinfelder Project No. 63608-A01* dated January 5, 2006, relating to the Development Site.
29. “**Phase II ESA**” means the Phase II environmental site assessment conducted by Kleinfelder, Inc., titled, *Phase II Environmental Site Assessment, City of Troutdale & Eastwind Development LLC Parcels, 410, 320, & 302 NW 257th Way/ NE Harlow Road, Tax Lots 400, 500,100, & 600, Troutdale, Oregon, Kleinfelder Project No. 63608-A01* dated May 12, 2006, relating to the Development Site..
30. “**Purchase Price**” has the meaning set forth in Section 5.
31. “**Purchase Price Note**” is the promissory note described in Section 4.2.2..

32. “**RFP**” means the Agency’s written solicitation to procure a person or entity to improve the Development Site in a manner consistent with the Full Vision Plan and the Urban Renewal Plan.
33. “**Schedule**” means the schedule for the Parties’ undertaking and completing the activities required by this Agreement, as set forth in Exhibit B.
34. “**Selected Developer**” means a person or entity, other than Eastwind, which the Agency chooses to develop the Developer Parcel pursuant to a Developer DDA.
35. “**Title Report**” has the meaning set forth in Section 3.2.1.
36. “**Unavoidable Delay**” has the meaning set forth in Section 10.1.
37. “**Urban Renewal Plan**” means the *Troutdale Riverfront Renewal Plan*, adopted by the voters of the City on May 16, 2006.