

## RESOLUTION NO. 21

### A RESOLUTION AUTHORIZING THE URBAN RENEWAL AGENCY CHAIR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH EASTWIND DEVELOPMENT, LLC

#### THE TROUTDALE URBAN RENEWAL AGENCY FINDS AS FOLLOWS:

1. Through its Urban Renewal Agency, the City of Troutdale has been working many years on a redevelopment plan for its former sewage treatment plant property and the adjacent privately owned property that comprise the Riverfront Renewal Area.
2. Successful redevelopment of the Riverfront Renewal Area will require careful cooperation and coordination between the Urban Renewal Agency and Eastwind Development LLC, owner of the adjacent 8.3-acre industrial site.
3. A Memorandum of Understanding between the Urban Renewal Agency and Eastwind Development outlines general understandings between the two parties regarding cooperation with one another in order to realize their goals and to maximize the development potential of their respective property.


#### NOW, THEREFORE BE IT RESOLVED BY THE URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE

- Section 1. The Chair is authorized to sign a Memorandum of Understanding with Eastwind Development, LLC on behalf of the Urban Renewal Agency substantially in accordance with Exhibit "A" of the staff report.
- Section 2. This resolution shall take effect immediately upon adoption.

YEAS: 7  
NAYS: 0  
ABSTAINED: 0

  
Jim Kight, Chair

Date 11-2-11

  
Sarah Skroch, Deputy City Recorder  
Adopted: October 18, 2011

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is entered into by and between EASTWIND DEVELOPMENT L.L.C., an Oregon Limited Liability Company ("Eastwind"), and the URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE, a public body corporate and politic ("URA"), each a "Party" and collectively, the "Parties."

### RECITALS

- A. Both Parties own certain adjoining real property within the Troutdale Urban Renewal Area, more commonly known as the Riverfront Redevelopment Site;
- B. Both Parties wish to develop their property as part of the Riverfront Redevelopment Project; and
- C. The Parties understand that it is mutually beneficial for them to cooperate with each other in order to realize their goals and to maximize the development potential of their respective property.

ACCORDINGLY, this MOU documents the following understanding and agreement of the Parties:

1. The Parties intend that the Riverfront Redevelopment Project generate jobs, revenues, and an increased tax base, as well as environmental and ecological restoration for the benefit of the Troutdale community. To that end, the Parties may undertake certain actions consistent with short and long term planning goals and redevelopment objectives of the City of Troutdale and the URA, which may include but are not limited to both Parties selling some or all of their property to one or more development entities with a demonstrated ability to carry out each Party's individual and mutual goals, and may also include a Party purchasing an option on or for the other Party's property or certain property rights to further the goals of this MOU.
2. The Parties intend that the Riverfront Redevelopment Project provide community benefits consistent with short and long term planning goals which may include but are not limited to vehicle, pedestrian, bicycle and recreational access and facilities, lighting, benches, signage and similar amenities. The Parties intend to cooperate to assist the URA in preparing applications for grants to help fund these amenities and to evaluate property exchanges and the granting of easements between the Parties.
3. The Parties intend as part of the Riverfront Redevelopment Project to explore additional public vehicle access to the properties including the improvement of primary access immediately south of I-84 to the North, and secondary access to the South from Drover's Trail Road.
4. The Parties agree to cooperate to evaluate environmental and natural resources conditions on their properties, which may include without limitation: soil and

groundwater sampling and analysis conducted on their properties by an environmental consultant; undertaking one or more "removal" or "remedial actions" as those terms are defined under Oregon law pursuant to the Oregon Voluntary Cleanup Program or other process; or undertaking other independent actions to promptly and cost-effectively address any environmental issues as agreed by the Parties. The Parties further agree to cooperate in applying for grants, loans, or other sources of funding to pay for these activities, which may include cost sharing by and among the Parties.

5. The Parties agree to assess what actions, if any, may be desirable or necessary to clear and prepare the properties for development, including but not limited to demolition and removal of the former Waste Water Treatment Facility and the Old Tannery building and related infrastructure. Analysis of the future of the Water Tower may also be jointly undertaken, which may involve its preservation or demolition. The Parties agree to cooperate with each other in the seeking of state and federal assistance for preservation, demolition, investigation, removal or remediation.
6. The Parties agree that land use actions may be required in order to prepare the property for sale or development at its highest and best use.
7. The Parties intend that no partnership, agency, employment or any other legal relationship between the Parties be established, construed or implied as a result of this MOU.
8. Each Party shall grant the other Party reasonable access to, across and on its property for the purposes of carrying out the intent of this MOU, subject to prior consent by the party from whom access is requested, which consent shall not be unreasonably withheld, conditioned or delayed. It is anticipated that such access shall include permission to perform necessary pre-development activities including but not limited to appraisal, survey, and investigation activities. The form of access and permission shall include reasonable terms and conditions to protect each Party's interests without unreasonable interference, including but not limited to reciprocal agreements to hold harmless, defend and indemnify the Party granting permission from the negligent or intentional conduct of the requesting Party.
9. Any notice to a Party concerning this MOU shall be in writing and delivered by first class mail or hand delivery, with a copy by fax or email, to:

Eastwind Development L.L.C.  
Attn: Garry J. Schnell  
8440 NE Alderwood Road, Ste. A  
Portland, OR 97230  
Telephone: (503) 872-8406  
Fax: (503) 493-2032

City of Troutdale, Urban Renewal Agency  
Attn: Craig Ward  
104 SE Kibling Ave.  
Troutdale, OR 97060  
Telephone: (503) 665-5175  
Fax: (503) 665-7265

With a copy to:

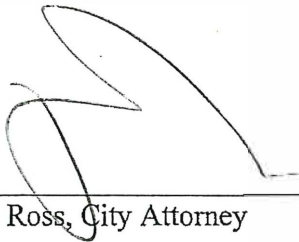
Christopher R. Hermann  
Stoel Rives LLP  
900 SW Fifth Avenue  
Portland, OR 97204  
Telephone: (503) 294-9236  
Fax: (503) 220-2480  
Email: crhermann@stoel.com

Douglas C. MacCourt  
Ater Wynne LLP  
1331 NW Lovejoy St., Suite 900  
Portland, OR 97209  
Telephone: (503) 226-8672  
Fax: (503) 226-0079  
Email: dcm@aterwynne.com

10. Except where otherwise agreed between the Parties or as specified herein, each Party shall pay its expenses incurred in connection with the preparation, execution and performance of this MOU and related transactions, including without limitation, all fees and expenses of attorneys, agents, representatives and accountants. Notwithstanding anything to the contrary in this MOU, no Party shall be obligated to expend any amount of funds, including without limitation funds that may be required to secure any grant, loan or source of funding for which the Parties apply under Section 4, unless a Party, in its sole discretion, agrees to such expenditure.
11. This MOU is intended to be a legal, valid and binding agreement only with respect to the specific good faith undertakings of the Parties set forth above. The Parties are not obligated to enter into any further agreements. Such obligations, if any, can and will arise only as a result of definitive written agreements having been duly executed by the Parties. The Parties fully agree that the failure of any Party to enter into any definitive agreement for the development of the Project for any reason shall not be the basis for any liability, claim or cause of action by one Party against another. By execution of this MOU, the Parties are not forming a joint venture, partnership or any other similar arrangement. No Party shall by the terms of this MOU be deemed to be a representative, agent or employee of another Party nor shall any Party have any authority or right to assume or create any obligation of any kind or nature, express or implied, on behalf of, or in the name of another Party, nor bind another Party in any respect, without the specific prior written authorization of such other Party.

APPROVED AS TO FORM:

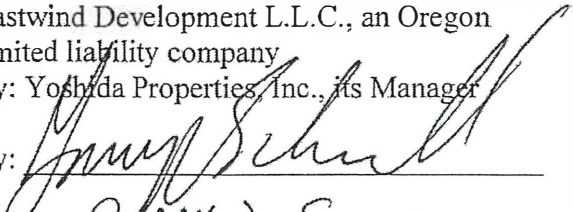
Date: 11/15/11

  
\_\_\_\_\_  
David J. Ross, City Attorney

UNDERSTOOD AND AGREED:

Date: 10/14/11


Eastwind Development L.L.C., an Oregon  
limited liability company  
By: Yoshida Properties, Inc., its Manager

By: 

Name: GARY J. SCHNELL  
Title: President

Date: November 15, 2011

The Urban Renewal Agency of the City of  
Troutdale, a public body corporate and politic

By:   
Name: Jim Kight  
Title: Chair