

AGENDA

COLUMBIA GATEWAY URBAN RENEWAL AGENCY BOARD

April 20, 2021

5:30 p.m.

VIA ZOOM

<https://zoom.us/j/98707465799?pwd=YjljZXJoUWIYcTVjWmtibUtPZi9rQT09>

Meeting ID: **987 0746 5799** Passcode: **284531**

Dial by your location: 1-669-900-6833 or 1-253-215-8782

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES – March 30, 2021
6. PUBLIC COMMENT
7. STAFF COMMENTS / PROJECT UPDATES
8. BOARD MEMBER COMMENTS / QUESTIONS
9. ACTION ITEM
 - A. Consideration of Fourth Addendum to the Recreation Building Disposition and Development Agreement, 213-219 E. Second Street
10. EXECUTIVE SESSION
 - A. Recess to Executive Session in accordance with ORS 192.660(2)(e) to conduct deliberations with persons designated by the governing body to negotiate real property transactions.
 - B. Reconvene to Open Session
<https://zoom.us/j/93097502870?pwd=VXNNTKzRTQzZlR3dhU2JIQlZLVkxWUT09>
Meeting ID: **930 9750 2870** Passcode: **811102**
 - C. Decision following Open Session

11. ADJOURNMENT

This meeting conducted via Zoom.

Prepared by/
Paula Webb, Secretary
Community Development Department

MINUTES

COLUMBIA GATEWAY URBAN RENEWAL AGENCY MEETING

March 30, 2021

5:30 p.m.

VIA ZOOM

PRESIDING: Gary Grossman, Chair

BOARD PRESENT: Staci Coburn, Mike Cronin, Tracy Dugick, Steve Kramer, Darcy Long-Curtiss, Tim McGlothlin, Dan Richardson

BOARD ABSENT: John Fredrick

STAFF PRESENT: Urban Renewal Manager Alice Cannon, City Attorney Jonathan Kara, Associate Planner Joshua Chandler, Secretary Paula Webb

CALL TO ORDER

The meeting was called to order by Chair Grossman at 5:31 p.m.

PLEDGE OF ALLEGIANCE

Chair Grossman led the Pledge of Allegiance.

APPROVAL OF AGENDA

Director Cannon recommended removal of Action Item 10. A. “Intergovernmental Agreement for the First Street/Riverfront Access Project for Right of Way Services.” This item requires action from City Council, not the Urban Renewal Board.

It was moved by Long-Curtiss and seconded by Dugick to approve the agenda as amended. The motion carried 8/0; Coburn, Cronin, Dugick, Grossman, Kramer, Long-Curtiss McGlothlin and Richardson in favor, none opposed, Fredrick absent.

APPROVAL OF MINUTES

It was moved by Coburn and seconded by Dugick to approve the minutes of February 16, 2021 as submitted. The motion carried 8/0; Coburn, Cronin, Dugick, Grossman, Kramer, Long-Curtiss McGlothlin and Richardson in favor, none opposed, Fredrick absent.

PUBLIC COMMENT

Chuck Gomez, Granada Theatre, 221 E. Second Street, The Dalles

Mr. Gomez suggested possible development of the parking lot directly behind the Granada Theatre. He believed the City would be greatly enhanced by an “urban greening” of the space. Gomez would like to convert the lot into a three-season, family style outdoor walk-up theater space.

Gomez stated both adjoining tenants are amenable to discussion of the project; Eric Gleason agreed to place a movie screen on the side of his building. Gomez also proposed raised garden beds and placement of a banner or ivy on the retaining wall for East First Street. He said the Granada is in the perfect position to offer the movies as well as provide snacks, grilled food and drinks.

Gomez thought this would be a positive development for the parking lot. In the past seven years, he has seen no development, or plans for development, of the parking lot. These improvements would not be permanent.

Gomez would like to lease the property for \$1.00 per year with five one-year extensions followed by an option to purchase the property.

Director Cannon stated she met earlier with Mr. Gomez and discussed the idea. She expressed her willingness to further discuss the project.

DISCUSSION ITEMS

Proposed FY 2021-2022 Urban Renewal Goals and Priority Projects

Director Cannon thanked the Board for accommodating the special meeting. She then presented the staff report.

Board Member Richardson requested the status of the First Street project.

Director Cannon replied the last update on the First Street project was provided at the September 15, 2020 meeting; KPFF consultants presented the current design. The design is 75% complete. The project began as a connection between Lewis and Clark Park to a new plaza space on Washington Street between First and Second Streets. The project morphed into the First Street Streetscape Project to improve the pedestrian crossing at Union Street and improve First Street between Union and Laughlin Streets with new sidewalks, streetscape, water line, sewer improvements, and a bike lane. The redesign could, if desired, accommodate two-way bike traffic.

Cannon stated next steps include communication with property owners and the public, coordination with the Engineering Department to ensure compliance with the Transportation System Plan, right-of-way acquisition, design completion and preparation of bid documents.

Board Member Richardson stated he would like a thorough discussion prior to bid phase. He suggested bike and pedestrian lanes be wide enough to allow two-way traffic. Richardson requested a review of the project as proposed.

Chair Grossman directed staff to include the topic at the April meeting.

Board Member Kramer stated this raises additional questions. The Agency does not own the streets or sidewalks. Kramer asked if the City would be included in the discussion, and who would be responsible for removing the RVs parked along First Street. These questions need to be addressed.

Director Cannon offered Staff would pledge to complete the discussion portion this fiscal year, making an amendment to the 2021-22 Goals and Priority Projects unnecessary.

Board Member Kramer suggested moving forward with Board consensus and formalize the decision within the budget process. Board consensus was in favor of Kramer's suggestion.

Urban Renewal Governance

Director Cannon presented the staff report.

Board Member Kramer stated he was disappointed there was no off-line discussion. Kramer said Director Cannon found historical information that negated the need for discussion, and said he would like to know who her historian was. Kramer felt his discussion with Director Cannon and Chair Grossman should have taken place.

Board Member Kramer referred to the staff report that listed the current membership of the Board. He noted the County was not included in the staff report. Director Cannon apologized for the oversight.

Board Member Kramer stated most of the content in the staff report appears to be City-driven. Kramer thought the Advisory Committee was doing good work, but a Council member lobbied to move to the present format. An Advisory Committee is not a Board, just a group of folk advising a governing body with full fiscal responsibility. Kramer stated he did not see Mid-Columbia Fire and Rescue (MCFR), the Port of The Dalles, Parks and Recreation (NWPRD), and Wasco County acting as the responsible agencies for work done within the city limits. He said, "That's where my heartburn is with the governance of this particular Board."

Board Member Kramer stated if the Board was okay with the way things were, he would move forward with this format. "I think the decisions that were made in the past were the wrong decisions and we need to revert that back to having the fiscal agent be the elected representatives of the City Council."

Chair Grossman stated he received input from Board Member Fredrick by email. Fredrick felt the current Board process was correct.

Board Member Coburn recollected earlier Board Members that shared the direct impacts this Agency had on their Boards and available funds. She appreciated that it reminded us, when making decisions, we should look at the long term, positive effect, so when this is finished those improvements increase their tax revenue. Coburn appreciated that reminder and their views, stating they come at it from a different place, almost like it's a personal investment for their Boards. She appreciated hearing their voices as part of a constituency truly affected by the decisions made to freeze their revenue stream.

Chair Grossman asked if anyone else felt the Board should look further into returning to the previous process. There was no response.

Mayor Mays asked if the Advisory Committee was made up of the same members. Chair Grossman replied, as he remembered, it was a smaller board and different structure.

Board Member McGlothlin added it functioned as an advisory committee; decisions were made by City Council. Basically, the Board was formed from a reaction to City Council decisions on development of a hotel in the downtown corridor. McGlothlin noted he voted against the current formation because it was a non-elected group of people making financial decisions. There was no way to recall people not accountable to the citizens as an elected official. McGlothlin stated the Board was formed legally, but felt ethical accountability may or may not be happening.

Board Member McGlothlin clarified the Advisory Committee was a smaller group made up of downtown businessmen and women. The structure and ability to make financial decisions changed.

Mayor Mays asked Board Member Kramer what the Advisory Committee should be made of. Kramer replied it would go back to the original structure. Kramer stated the Board was not putting more money on the tax rolls; the return was not going back to districts. Putting the responsibility on Fire and Rescue, the Park, the Port and the County is irresponsible at this time. City Council should be the responsible party.

Chair Grossman stated, “If you look back in the history, the reason why in recent times we haven’t been getting a return on property, is because the former agency, which was City Council, got us into a lot of property that didn’t allow us to do what we needed to do. I don’t see us returning back to a system that got us into trouble in the first place.”

Board Member Long-Curtiss noted she had not served prior to the new system. Based on her research, there are only two options for Urban Renewal in Oregon; both strictly outlined in the Oregon Revised Statutes (ORS). One is under City Council, the second is the independent Board we are now. Long-Curtiss agreed the City Council structure is what brought us where we are now. Long-Curtiss felt things were changing, but we have had difficult economic times. She noted district representatives are elected. Long-Curtiss understood Board Member Kramer’s frustration, but felt City Council did not have as much incentive for things other than urban blight and downtown improvements. She said, “All the other agencies want a return on their investment; that’s an important focus for us to maintain.”

Chair Grossman stated there was concern with the previous form. The Advisory Committee had a loose structure appointed by the Mayor. During that time the Fire District had concerns with their lack of input on projects. Chair Grossman said it had been good to have input from all the taxing districts. “I think it’s that, holding us particularly accountable to making sure we have a return through urban renewal in terms of property taxes for everybody concerned.”

Board Member McGlothlin stated since the inception, he counted four, maybe five, different heads of the Planning Department that brought inconsistency, changing recommendations and vision. The underlying conditions were a return on investment and taxing districts concerns. Decisions were made with incomplete information; we were basically separated. We had input, but no direct communication, between the Advisory and the City Council.

Chair Grossman stated there was a “divide and conquer” period that separated the Advisory Committee and City Council. McGlothlin added many things were already in the works, the

current Board accepted overview of projects developed many years before.

Chair Grossman stated he did not sense a strong desire to reorganize. He then asked for input.

Board Member Kramer stated his willingness to put this on hold, continue some thought process and conversations off line, and get a better grip on where folks are with this.

Board Member McGlothlin noted the life of the Agency is finite. Director Cannon stated our current debt obligation has the Agency paying off all remaining debt in 2029. She added there may be other revenues that would keep the Agency alive. McGlothlin noted we are looking at eight years to continue this Agency as it exists or return to the way it was, our only two choices.

STAFF COMMENTS / PROJECT UPDATES

Director Cannon explained why the First Street right-of-way agreement was pulled from Board action. The fiscal agent for the City with the ability to enter into an IGA (Intergovernmental Agreement) is the City organization. Governmental agreements related to our work with ODOT will go to City Council for their approval. Once finalized, Director Cannon will return to the Board for recommendation to City Council. The draft agreement sets aside \$200,000.00 to fund the right-of-way phase for the First Street project. An updated cost for this phase of work has now increased to \$250,000.00. Funds are available in the current and proposed budget to cover that cost.

Director Cannon said work continues with Todd Carpenter and Carla McQuade on the Recreation Building. Cannon stated she is pleased with recent progress. A Building Permit application has been submitted for approval. The Historic Landmarks Commission approved the façade design in spring of 2020. Staff may return as early as next month for Board consideration of a new addendum to adjust the project schedule in response to the pandemic.

Board Member McGlothlin asked if Union Pacific Railroad (UPRR) was cooperative in the First Street development. Cannon replied she has had no updated conversations with UPRR. We have good documentation from the 2010-2012 era. A complication with this project is right-of-way; a large portion of the right-of-way is UPRR land.

BOARD MEMBER COMMENTS / QUESTIONS

Board Member Kramer thanked everyone for their candid conversation.

EXECUTIVE SESSION

Pursuant to Item 11. A. of the Urban Renewal Agency Board Agenda dated March 30, 2021, which cites ORS 192.660(2)(e), the Board adjourned to Executive Session at 6:34 p.m. Mayor Mays was invited to attend Executive Session. There was no opposition.

RECONVENE TO OPEN SESSION

Chair Grossman reconvened the Open Session at 7:10 p.m.

DECISION FOLLOWING EXECUTIVE SESSION

There was no decision following Executive Session.

ADJOURNMENT

Being no further business, the meeting adjourned at 7:12 p.m.

Submitted by/
Paula Webb, Secretary
Community Development Department

SIGNED: _____

Gary Grossman, Chair

ATTEST: _____

Paula Webb, Secretary
Community Development Department

DRAFT



IMPROVING OUR COMMUNITY

COLUMBIA GATEWAY URBAN RENEWAL AGENCY

CITY OF THE DALLES

AGENDA STAFF REPORT

AGENDA LOCATION: 9. A.

DATE: April 20, 2021

TO: Chair and Members of the Urban Renewal Agency Board

FROM: Alice Cannon, Community Development Director/Urban Renewal Manager

ISSUE: **Fourth Addendum for the Disposition and Development Agreement for the Recreation Building, 213-219 East Second Street**

BACKGROUND

Attached for the Agency's consideration is the draft Fourth Addendum to the Disposition and Development Agreement (DDA) between Mr. Todd Carpenter and Ms. Carla McQuade ("Developer"), and the Agency for the redevelopment of the Recreation Building located at 213-219 East Second Street. At the **January 21, 2020** meeting, the Agency approved the **First Addendum** to the DDA which delayed for six months the second installment payment (\$10,000) and allowed for the submission of a revised scope of redevelopment for the property. The First Addendum was requested by the Developer to accommodate project changes due to the partial roof collapse of the westerly portion of the building (former bowling alley) that occurred in August 2019.

At the **February 27, 2020** meeting, the Agency approve the **Second Addendum** to the DDA which established a new installment payment schedule for the middle and easterly buildings (referred to as Parcels #1 and #2). This schedule was further refined to accommodate for delays associated with roof collapse, but also added performance expectations associated with project milestones such as setting deadlines for receiving design approval from the City's Historic Landmarks Commission and setting dates for receiving final certificates of occupancy for Parcels #1 and #2).

Since that time, the developer has experienced delays associated with the global COVID-19 pandemic. The developer's design consultants were unable to complete design plans in a timely manner over the past year.

With façade design now complete and approved by the Historic Landmarks Commission in May 2020, the developer will soon be able to begin redevelopment of the two storefronts on Parcels #1 and #2.

The **Fourth Addendum DDA** outlines a new schedule as follows:

**REVISED SCHEDULE OF CONTRACT PAYMENTS
AND CLOSINGS, AND DATES FOR
PROGRESS REPORTS TO BE PROVIDED TO AGENCY**

January 25, 2019 – First installment contract payment of \$10,000 was paid by Developer.

November 30, 2021 – Second and third installment contract payments of \$7,500 each (\$15,000 total) to be paid by Developer. Copy of certificate of occupancy for structures built on Parcel #1 and Parcel #2 to be provided by Developer. Status report on façade improvements and structures constructed upon Parcel #1 and Parcel #2 to be provided by Developer. The date for payment of the installments for closing may be extended as provided in Section 2.3.1.

April 30, 2022 – Façade improvements completed for Recreation Building. Redevelopment plan provided by Developer for Parcel #3 to be approved by Agency.

June 1, 2022 – Fourth installment contract payment of \$25,000 to be paid by Developer. Closing Date for purchase of Parcel #3.

BUDGET IMPLICATIONS

Approval of the draft Fourth Addendum will not create any new budget implications. The developer's total purchase price for the Agency-owned properties remains \$50,000. The schedule for payment and completion of performance milestones has changed, as outlined in this report.

BOARD ALTERNATIVES

1. **Staff recommendation:** Move to authorize the execution of the Fourth Addendum to the Disposition and Development Agreement between the Columbia Gateway Urban Renewal Agency and Mr. Todd Carpenter and Ms. Carla McQuade for property known as the Recreation Building located at 213-219 East Second Street.
2. Move to decline authorization of the Fourth Addendum and direct staff accordingly.

Attachments

- **Attachment A** -- Draft Fourth Addendum to DDA, w/attachment
- **Attachment B** -- Original DDA signed on January 25, 2019
- **Attachment C** – First Addendum to DDA signed on January 28, 2020
- **Attachment D** – Second Addendum to DDA signed on March 10, 2020

ATTACHMENT A

FOURTH ADDENDUM TO AGREEMENT FOR DISPOSITION OF PROPERTY FOR REDEVELOPMENT OF RECREATION BUILDING

WHEREAS, on January 25, 2019, the Columbia Gateway Urban Renewal Agency (“Agency”) and Todd Carpenter and Carla McQuade (jointly, “Developer”) entered into an Agreement for the Disposition of Property for Redevelopment of the property commonly referred to as the “Recreation Building” (“DDA”);

WHEREAS, on January 28, 2020, Agency and Developer entered into the First Addendum to the DDA, which included changes to the dates of payments to be made by Developer for purchase of the properties comprising the Recreation Building and revised the schedule for completion of the façade improvements to the same;

WHEREAS, on March 10, 2020, Agency and Developer entered into the Second Addendum to the DDA, which addressed renegotiated terms and revisions outlined in the First Addendum to the DDA;

WHEREAS, on June 16, 2020, Agency and Developer entered into the Third Addendum to the DDA, which modified the insurance provisions of the Agreement consistent with recommendations from the Agency’s insurer;

WHEREAS, the Second Addendum to the DDA modified timeline obligations for Developer’s performance of conditions precedent to conveyance, and the Parties now understand additional time is required for Developer’s full performance; and

WHEREAS, the Parties now desire to addend the DDA to provide sufficient time for Developer’s performance of conditions precedent to conveyance.

NOW, THEREFORE, in consideration of the terms and provisions herein, the Parties mutually agree:

1. Subparagraph 2.3.1 of Paragraph 2.3 **Purchase Price** in Section 2. **GENERAL TERMS OF CONVEYANCE** shall be revised to read:

2.3.1 The actual purchase price in terms of monetary consideration is \$50,000. The purchase price for the three parcels is allocated as follows: Parcel #1 – \$12,500; Parcel #2 – \$12,500; and Parcel #3 – \$25,000. The purchase price reflects the fair reuse value, expressed in terms of capital price, as determined by the Agency in its discretion as the price necessary to facilitate development or redevelopment of the Project Site in accordance with the provisions of the Agency’s Urban Renewal Plan.

The sum of \$50,000 shall be paid in four installment payments. The first payment of \$10,000 was paid upon execution of this Agreement. The second payment of \$7,500 for Parcel #1 shall be paid at closing (scheduled for November 30, 2020) following the issuance of a certificate of occupancy for the structure to be built upon Parcel #1, which certificate of occupancy is anticipated to be issued prior to November 30, 2020. If additional time is needed for Developer to obtain the certificate of occupancy for the structure to be built upon

Parcel #1, Agency and Developer agree the time for closing Parcel #1 may be extended to January 18, 2022. The third payment of payment of \$7,500 for Parcel #2 shall be paid at closing (scheduled for November 30, 2020) following the issuance of a certificate of occupancy for the structure to be built upon Parcel #2, which certificate of occupancy is anticipated to be issued prior to November 30, 2020. If additional time is needed for Developer to obtain the certificate of occupancy for the structure to be built upon Parcel #2, Agency and Developer agree the time for closing Parcel #2 may be extended to January 18, 2022. The fourth payment of \$25,000 for Parcel #3 shall be paid at closing (scheduled to occur on or before June 1, 2022). The dates for payment of the first, second, third, and fourth installments and the projected closing dates are listed in Exhibit "C".

2. Subparagraph 2.6.1(b)(1) **Conditions Precedent to Conveyance of Project Site** of Paragraph 2.6 **Conditions Precedent to Conveyance** in Section 2. **GENERAL TERMS OF CONVEYANCE** shall be revised to read:

(1) For Parcels #1 and #2, prior to closing, Developer must provide Agency with a copy of the certificate for occupancy for the structures to be built upon these parcels and such provision must occur no later than November 30, 2020, each subject to the respective extension of time provided for in Section 2.3.1.

3. Exhibit C shall be replaced with the revised Exhibit C attached hereto.
4. Except as modified by the First Addendum, Second Addendum, Third Addendum, and this Fourth Addendum, the terms and conditions of the Development and Disposition Agreement entered into by and between Agency and Developer on January 25, 2019, shall remain in full force and effect.

Dated this ____ day of _____, 2021.

AGENCY:

DEVELOPER:

By: _____
Gary Grossman, Chair

By: _____
Todd Carpenter

By: _____
Carla McQuade

Approved as to form:

Jonathan M. Kara, City Attorney

EXHIBIT C – REVISED

**SCHEDULE OF CONTRACT PAYMENTS AND CLOSINGS, AND DATES FOR
PROGRESS REPORTS TO BE PROVIDED TO AGENCY**

January 25, 2019 – First installment contract payment of \$10,000 was paid by Developer.

November 30, 2021 – Second and third installment contract payments of \$7,500 each (\$15,000 total) to be paid by Developer. Copy of certificate of occupancy for structures built on Parcel #1 and Parcel #2 to be provided by Developer. Status report on façade improvements and structures constructed upon Parcel #1 and Parcel #2 to be provided by Developer. The date for payment of the installments for closing may be extended as provided in Section 2.3.1.

April 30, 2022 – Façade improvements completed for Recreation Building. Redevelopment plan provided by Developer for Parcel #3 to be approved by Agency.

June 1, 2022 – Fourth installment contract payment of \$25,000 to be paid by Developer. Closing Date for purchase of Parcel #3.

ATTACHMENT B

AGREEMENT FOR DISPOSITION OF PROPERTY FOR REDEVELOPMENT OF RECREATION BUILDING

This **AGREEMENT FOR DISPOSITION OF PROPERTY FOR REDEVELOPMENT** (this “Agreement”) is made as of Jan. 25, 2019, by the **COLUMBIA GATEWAY URBAN RENEWAL AGENCY**, the duly authorized and acting Urban Renewal Agency of the City of The Dalles, Oregon (“City”), a political subdivision of the State of Oregon (“Agency”) and Todd Carpenter and Carla McQuade (“Developer”). Agency and Developer are referred to jointly in this Agreement as “Parties” and individually as a “Party.”

RECITALS

1. Agency has acquired the real property located at 215 East Second Street in The Dalles, Oregon, which includes the building commonly known as the Recreation Building which is located upon three separate tax parcels (the “Project Site”). The Project Site is more particularly described in Exhibit “A”.
2. Agency’s intent in acquiring the Project Site is to facilitate private redevelopment in support of the public objectives of the Columbia Gateway Urban Renewal Plan (“UR Plan”).
3. Developer is interested in redeveloping the building located upon the Project Site (hereinafter referred to as “Project”).
4. The Parties are now prepared to enter into a definitive Agreement for Developer to undertake acquisition of the real property located upon the Project Site, and development and operation of the Project to be renovated or built thereon.
5. The completion of the Project according to the terms of this Agreement is a material inducement to Agency's sale of the real property described in Exhibit A.
6. Agency finds that Developer's use of the Project Site, pursuant to this Agreement, will help achieve the community and Agency goals for, among others, enhancing the Downtown, curing blighted conditions, increasing taxable value of real property and reasonably anticipating additional job creation.

AGREEMENT

This Agreement shall incorporate by this reference, the Recitals, and all Exhibits hereto. The Parties, in consideration of the promises and the Agreements set forth herein and for other 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. 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. Defined terms may be used in the singular or the plural.

2. GENERAL TERMS OF CONVEYANCE

2.1 **Identification of Parcel.** The Project Site consists of three separate tax parcels, popularly known as the Recreation Building property, and referred to in this Agreement, as follows in this Section 2.1 and identified more specifically in Exhibit A. The Agency shall convey the parcels as provided in this Agreement in accordance with the scheduled closing date on or about February 1, 2022.

2.2 Form of Deed.

2.2.1 Following the closing for the purchase of the Project Site by the Agency, upon satisfaction of the Conditions Precedent to Conveyance as set forth in Section 2.6.1 hereof, the Agency will convey the parcels which constitute the Project Site to Developer pursuant to a Warranty Deed in substantially the form attached hereto as Exhibit B.

2.3 Purchase Price.

The Purchase Price for the Parcel is as follows:

2.3.1 The actual purchase price in terms of monetary consideration is \$50,000. The purchase price reflects the fair reuse value, expressed in terms of capital price, as determined by the Agency in its discretion as the price necessary to facilitate development or redevelopment of the Project Site in accordance with the provisions of the Agency's Urban Renewal Plan.

The sum of \$50,000 shall be paid in four installment payments. The first payment of \$10,000 shall be paid upon execution of this Agreement. The second payment of \$10,000 shall be paid upon the date which is one year from the date of execution of this Agreement. The third payment of \$15,000 shall be paid upon the date which is two years from the date of execution of this Agreement. The fourth payment of \$15,000 shall be paid upon the date which is three years from the date of execution of this Agreement. The dates for payment of the first, second, third and fourth installments are listed in Exhibit "C".

2.4 Title Review.

The following title review process will apply to the purchase of the Project Site.

2.4.1. Not later than five (5) business days after receipt of the preliminary title report for the transaction involving acquisition of the Project Site by Developer, Agency shall deliver to Developer a copy of the preliminary title report for the Project Site. Developer shall notify Agency within five (5) business days of any objection to the preliminary title report or the

exceptions to title. Within five (5) business days after Developer’s written notice to Agency described in the preceding sentence, Agency shall notify Developer in writing of its intention to remove, or not remove, the objectionable exceptions to title prior to Closing. If Agency refuses to remove any such objected to exceptions, Developer may terminate this Agreement or proceed to close subject to same. Any exceptions to which Developer does not timely object in writing or otherwise accepts at Closing are the “Final Permitted Exceptions.”

2.4.2 Agency covenants and agrees that it shall not further encumber the Project Site after the date hereof (other than those exceptions appearing on the Title Report on the date provided to Developer) without the written consent of Developer, which consent shall not be unreasonably withheld, conditioned or delayed.

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

The following provisions will apply to the purchase of the Project Site.

2.5.1 The Agency, at its expense, shall provide Developer with a standard coverage ALTA Owner's Policy of Title Insurance, issued by Wasco Title, covering the Project Site to be purchased insuring Developer in the amount of the Purchase Price, all free and clear of encumbrances except the standard exceptions and the Final Permitted Exceptions. Developer, at its option and its expense, may elect to obtain extended coverage under such policies of title insurance, and the Agency agrees to execute any affidavits or other documents required by Wasco Title to enable Developer to obtain such coverage.

2.5.2 The costs for recording a Memorandum of this Agreement, the Deed for the Project Site and any other documents required by Developer to be recorded will be paid by Agency.

2.5.3 Any assessments on the conveyed Project Site shall be paid in full by the Developer as of the Closing Date. All other Closing costs, if any, shall be allocated in accordance with the customary practice in Wasco County.

2.5.4 The Developer shall pay personal property taxes which are assessed as of January 1st of any calendar year. For example, if the Developer installs equipment in the building on the Project Site during the remainder of the 2019 calendar year, Developer shall pay the tax assessed upon the personal property which is present in the building as of January 1, 2020. Real property taxes assessed upon the Project Site shall be paid by the Developer under either of the following scenarios; (a) as a result of the Developer’s occupation of the Recreation Building and the opening of the Recreation Building for the any use; or (b) from and after the Closing Date when title to the Project Site is conveyed to the Developer.

2.6 Conditions Precedent to Conveyance.

2.6.1 Conditions Precedent to Conveyance of Project Site.

Developer and the Agency are not obligated to close the transfer of the Project Site unless the following conditions are satisfied to the reasonable satisfaction of, or waived by, the benefited Party. The Party benefited by a particular condition shall not unreasonably withhold or

delay acknowledgment that the condition has been satisfied. The Parties shall act diligently and in good faith to satisfy conditions over which they have control or influence.

(a) Developer is not obligated to purchase the Project Site until, to Developer's satisfaction:

(1) Agency shall have given Developer satisfactory proof of marketable title and the issuance of a preliminary title insurance commitment evidencing the willingness of a title insurance company to insure the Project Site, subject only to the standard exceptions and the Final Permitted Exceptions;

(2) No litigation is pending which prevents the Agency or Developer from performing their respective obligations under this Agreement.

(b) Agency is not obligated to sell the Project Site until, to the Agency's satisfaction:

(1) Developer has completed repairs to the roof of the Recreation Building within a period of one year from the date of execution of this Agreement. Agency has agreed to contribute an amount up to \$15,000 toward the cost of the roof repairs, and Developer understands and agrees they will be responsible for any costs in excess of the \$15,000 contributed by the Agency for the repair of the Recreation Building roof. During the period which shall commence on the date of execution of this Agreement and continue to a date one year from the date of execution of this Agreement, Developer shall have completed the architectural design for improvements to the façade of the Recreation Building, with the intent of restoring the original façade of the Recreation Building. Developer shall also have obtained the approval of the City's Historic Landmark Commission for the proposed design of the façade improvements. With the assistance of the Agency, Developer will initiate the process of applying for grant funding, including funding available through the Main Street Program, to assist with the costs of the façade improvements. The façade improvements shall comply with any requirements of Chapter 11.12 of the City of The Dalles Municipal Code concerning Historic Resources.

In the event that grant funding is not obtained to assist with the costs of the façade improvements for the Recreation Building, Developer shall be responsible for securing funding to ensure that the façade improvements are completed by no later than the date which is three years from the date of execution of this Agreement.

(2) Developer agrees that on the dates which coincide with the one year, two year, and three year anniversary of the date of the execution of this Agreement, they will provide a written report to the Agency detailing the improvements which have occurred during the annual period of the report, showing that the Developer has made substantial progress toward the redevelopment and rehabilitation of the Recreation Building. The annual reports provided by Developer shall include confirmation that the physical upgrades to the Recreation Building have been performed in a satisfactory and workmanlike manner, which requires that the Developer shall be responsible for ensuring that applicable codes and regulations required for the physical upgrades, including but not limited to, building, fire, plumbing, and Americans with Disabilities Act requirements, shall have been complied with in the completion of the physical upgrades.

2.6.2 Elections upon Non-Occurrence of Conditions.

Except as provided below, if any condition in Section 2.6.1 is not fulfilled to the satisfaction of the benefited Party or Parties on the date scheduled for Closing as to the Project Site, subject to any extension that may be granted pursuant to this Section 2.6.2, or elsewhere in this Agreement, then such benefited Party or Parties may elect to:

(a) Terminate this Agreement, which termination shall become 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

(b) 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

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

2.7 Agency Representations and Warranties.

Agency represents that:

2.7.1 A copy of the Level I Environmental Assessment dated August 20, 2012 has been disclosed to Developer. Except as has been disclosed to Developer in writing, to Agency'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 Project Site, or underground storage tanks existing on the Agency Parcel, except in compliance with Environmental Laws currently in

effect; and Agency has not received notice of the release of any Hazardous Substances on the Project Site.

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

2.7.3 To the best of Agency's knowledge, there is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending or threatened, which may affect the Agency Parcel or Agency's ability to perform its obligations under this Agreement;

2.7.4 The Agency has not received any notice stating that the Project Site is in violation of any applicable laws, rules, regulations, ordinances and other governmental requirements ("Laws");

2.7.5 No representation, warranty or statement of the Agency in this Agreement, or any of the exhibits attached, contains any untrue statement of a material fact;

2.7.6 As of the date hereof, there are no defaults by the Agency under this Agreement or events that, with the passage of time, would constitute a default of Agency under this Agreement.

2.7.7 Agency has obtained approvals required by Law in order to enter into this Agreement.

2.7.8 "Agency's knowledge" shall mean the actual knowledge of Steven Harris, Urban Renewal Manager.

2.8 **Developer Representations and Warranties.**

Developer represents that:

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

2.8.2 No representation, warranty or statement of Developer in this Agreement, or any of the exhibits attached, contains any untrue statement of a material fact.

2.8.3 As of the date hereof, there are no defaults by Developer under this Agreement or events that with the passage of time would constitute a default of Developer under this Agreement.

2.8.4 Developer enters into this Agreement without reliance upon any verbal representation of any kind by Agency, its employees, agents or consultants regarding any aspect of the site, the Project, its feasibility, financing or compliance with any governmental regulation.

3. PUBLIC IMPROVEMENTS AND INFRASTRUCTURE

3.1 **Utility Service Representations.** Developer will determine, for their own benefit, that public and private utilities are available to the Project Site with sufficient capacity to serve the Project, and that any utilities located within the Project Site are acceptable or shall be removed by Developer.

3.2 **Subsurface, Surface and Building Conditions.** Except for Agency’s specific representations and warranties set forth in this Agreement, the Project Site shall be conveyed to Developer “AS IS”. Except as otherwise specifically provided in this Agreement, Agency makes no warranties or representations as to the suitability of the soil conditions, or any other conditions of the Project Site or structures thereon, for any improvements to be constructed by the Developer, and except for representations and warranties otherwise provided by Agency in this Agreement, Developer warrants that it has not relied on any representations or warranties made by the Agency as to the environmental condition of the Project Site, the suitability of the soil conditions, or any of the conditions of the Project Site for any improvements to be constructed by the Developer. Except for breach of Agency representations and warranties expressly set forth in this Agreement, Developer agrees that the Agency will not be liable for any loss, cost or damage which may be caused or incurred by Developer by reason of any such soil or physical conditions on the Project Site. Agency has allowed Developer free access to Agency’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.

4. DEVELOPMENT

4.1 **Project Financing.**

4.1.1 Developer will be responsible for the raising of all funds necessary for re-development of the Recreation Building on the Project Site.

4.2 **Historic Character of the District.**

4.2.1 In developing the design for the façade of the Recreation Building to facilitate the use of the Project Site, the Developer agrees to comply with any applicable provisions of the City’s Historic Landmarks Ordinance (Chapter 11.12 of the City of The Dalles Municipal Code). Developer is encouraged to apply for a façade improvement grant through the Main Street Grant Program to offset the costs of the façade work for the Recreation Building.

4.3 **Diligent Completion.**

4.3.1 In accordance with the terms and conditions of this Agreement, at a minimum, by a date which is defined as three years from the date of execution of this Agreement, subject to Unavoidable Delay as provided in Section 7.6, Developer shall have completed construction of tenant improvements for at least one portion of the Recreation Building such that the portion of the building can be leased for occupancy.

4.3.2 Developer agrees to keep Agency informed of its progress with respect to the Project after the Effective Date, by issuing annual reports as to the status of the annual physical upgrades to the Recreation Building. The projected dates for the annual reports are listed in Exhibit “C”. Agency shall be entitled to depend on the accuracy and completeness of any such information provided to it by Developer, except third-party reports or work products.

4.3.3 Developer’s annual reports described in Section 4.3.2 may be made via email correspondence to the Agency Contract Manager or his appointee.

4.4 **Agency Role in Construction Approval Process.**

4.4.1 Agency will, upon Developer’s request, assist Developer in obtaining the City approvals necessary to commence construction and complete the Project as proposed in this Agreement. The Parties understand and agree that Agency cannot guarantee such approvals, but Agency shall use its best efforts in working with the City and any other parties necessary to accomplish the Project.

5. ENVIRONMENTAL MATTERS

5.1 **Indemnification.** Developer shall comply with all Environmental Laws with respect to its business and the construction and operation of the Project from and after the Closing Date, except for matters caused solely by the act or failure to act of the Agency, its employees, agents, contractors, or invitees. Developer 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 or asserted against the Agency, and 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 Developer.

5.2 **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. ASSIGNMENT PROVISIONS

6.1 **No Assignment.** Unless approved by the express written consent of Agency, Developer may not assign their interest in this Agreement. Agency may condition its approval of a transfer or assignment as Agency finds necessary in its sole discretion. Any attempt to assign or transfer an interest in this Agreement, or the Project Site, or any portion thereof shall result in immediate termination of this Agreement, and shall trigger the remedies of Section 7.2 or 7.3, as the case may be.

6.2 **Permitted Assignment or Transfer.** Notwithstanding Section 6.1, “assignment or transfer” shall not include:

6.2.1 Any Mortgage(s) which Developer may cause to attach to the Project Site for purposes of the Project development; or

6.2.2 The assignment of this Agreement to an entity owned solely by, or controlled by Developer.

Provided that, any assignment or transfer permitted by this Section 6.2 shall not operate to relieve the Developer of the Developer's obligations under this Agreement.

7. DEFAULT; REMEDIES

7.1 Default and Cure.

7.1.1 Default by Developer. A default shall occur if Developer 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 Developer receives written notice from Agency specifying the breach. Failure of Developer to act diligently and in good faith to satisfy conditions over which it has control or influence is a breach. Specifically, Developer's failure to Close the purchase of the Project Site after all conditions to conveyance has been satisfied or waived as to the subject conveyance is a breach. In the case of a breach which cannot, with due diligence, be cured within a period of sixty (60) days, a default shall occur if Developer does not commence the cure of the breach within sixty (60) days after Developer receives written notice from Agency and thereafter diligently prosecute to completion such cure. A default also shall occur if Developer makes any assignment for the benefit of creditors, or is adjudicated a bankrupt, or has a receiver, trustee or creditor's committee appointed over it that is not removed within one hundred eighty (180) days after appointment. Developer shall not be in default hereunder for failure to pay any tax, assessment, lien or other charge if Developer in good faith is contesting the same and, if necessary to avoid foreclosure, has furnished an appropriate bond or other undertaking to assure payment in the event Developer's contest is unsuccessful.

7.1.2 Default by Agency. A default shall occur if Agency breaches any material provision of this Agreement, and such breach continues and is not remedied within sixty (60) days after Agency receives written notice from Developer 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 Agency shall not within such sixty (60) day period commence the cure of the breach and thereafter diligently prosecute to completion such cure.

7.2 Agency's Pre-Conveyance Remedies. If Developer defaults in any material term of this Agreement before the Project Site is conveyed to Developer, Agency may, at its option: (i) terminate this Agreement by written notice to Developer as to the Project Site including notice the Agency is requiring Developer execute the Quitclaim Deed in the form attached as Exhibit D, without waiving any cause of action Agency may have against Developer and seek monetary damages against Developer; or (ii) specifically enforce the obligations of Developer under this Agreement.

7.3 Developer's Pre-Conveyance Remedies. If Agency defaults as to any material term of this Agreement prior to Closing, Developer may, as its sole remedy, but at its option: (i)

terminate this Agreement by written notice to Agency, and pursuant to such a termination, Developer shall be entitled to receive a refund of all sums paid toward the purchase of the property, including interest; or (ii) specifically enforce the obligations of the Agency under this Agreement.

7.4 **Developer’s Post-Conveyance Remedies.** In the event of Agency’s material default after the Agency conveys the Project Site to Developer, Developer may, as its sole remedy, specifically enforce the obligations of the Agency under this Agreement.

7.5 **Nonexclusive Remedies.** The rights and remedies provided by this Agreement shall not be deemed exclusive, except where otherwise indicated, and shall be 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 shall 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 should not limit or affect the obligations of a Party under any contractual indemnities set forth herein.

7.6 **Unavoidable Delay.**

7.6.1 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 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.

7.6.2 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 the Agency or Developer, 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 365 days.

8. MISCELLANEOUS PROVISIONS

8.1 **Agency Contract Manager.** For the purposes of making determinations relating to provisions of this Agreement on behalf of Agency, granting approvals and approving Minor Modifications, Agency has designated Steven Harris as the Agency Contract Manager.

8.2 **Authorization and Confidentiality.**

8.2.1 Except for published information, or information ascertainable from public records, any confidential information furnished or disclosed by Agency in connection with the Project will be held by Developer in confidence and will not be divulged to any third party, except for a Party's advisors and consultants or as may be necessary to further the development of the Project.

8.2.2 Except for published information, or information ascertainable from public records, if the Agency concludes that information furnished or disclosed to the Agency by Developer in connection with the Project is exempt from disclosure under state law, then, to the extent allowed by state law, and until ordered to disclose pursuant to a valid order of the district attorney, Agency will hold in confidence such information, and will not divulge such information to any third party, except for Agency's advisors and consultants.

8.2.3 If, for any reason, this Agreement is terminated, then each Party will return all such confidential information to the party from whom it was obtained.

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

8.4 **Notice.**

8.4.1 Any notice or communication under this Agreement by either Party to the other shall be deemed given and delivered (a) forty-eight (48) hours after being dispatched by registered or certified U.S. mail; postage prepaid, return receipt requested, or (b) when received if personally delivered, and:

8.4.2 In the case of a notice or communication to Developer, addressed as follows:

Todd Carpenter and Carla McQuade
P.O. Box 2688
The Dalles, OR 97058
toddecarpenter@gmail.com

8.4.3 In the case of a notice or communication to the Agency, addressed as follows:

Steven Harris, Agency Manager
City of The Dalles
313 Court Street
The Dalles, OR 97058
E-mail: sharris@ci.the-dalles.or.us

With a copy to:

Gene Parker, City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058
E-mail: gparker@ci.the-dalles.or.us

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

8.5 **Merger.** None of the provisions of this Agreement are intended to, or shall be, merged by reason of any Deed transferring title to the Project Site or a portion thereof from the Agency to Developer or any successor in interest, and any such Deed shall not be deemed to affect or impair the provisions and covenants of this Agreement, but shall be deemed made pursuant to this Agreement.

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

8.7 **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, shall be considered a waiver of any other rights of the Party making the waiver. No waiver by Agency or Developer of any provision of this Agreement, or any breach thereof, shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.

8.8 **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, each party shall be responsible for paying for their own attorney's fees and other costs associated with the proceeding. This provision shall cover costs and attorney fees related to, or with respect to, proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

8.9 **Choice of Law.** This Agreement shall be governed by Oregon law.

8.10 **Calculation of Time.** All periods of time referred to herein shall 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 shall be extended to include the next day which is not a Saturday, Sunday or legal holiday.

8.11 **Construction.** In construing this Agreement, singular pronouns shall be taken to mean and include the plural, and the masculine pronoun shall be taken to mean and include the feminine and the neuter, as the context may require.

8.12 **Legal Purpose.** Developer agrees that it shall use the Project Site solely for lawful purposes.

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

8.14 **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. There are no oral or written representations made by a Party, implied or express, other than those contained in this Agreement.

8.15 **Modifications.** Any modifications to this Agreement shall be made in writing and executed 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. Agency Contract Manager may approve minor modifications to this Agreement without Agency Board approval. "Minor Modifications" include:

8.15.1 Changes in the Schedule of Performance when deemed warranted by the Agency Contract Manager which do not exceed ninety (90) days, excluding a change in the Final Termination Date; and

8.15.2 Corrections of errors, clarifications, or minor modifications that do not change the substantive content of the Agreement.

8.15.3 All other modifications to the Agreement must be approved by the Agency Board.

8.16 **Successors and Assigns.** Subject to the provisions of Sections 6 and 7, the benefits conferred by this Agreement, and the obligations assumed thereunder, shall inure to the benefit of and bind the successors and assigns of the Parties.

8.17 **Place of Enforcement.** Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought in the Circuit Court of the State of Oregon for Wasco County, or the United States District Court for the District of Oregon in Portland, Oregon.

8.18 **No Partnership.** Nothing contained in this Agreement or any acts of the Parties hereby shall 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.

8.19 **Non-waiver of Government Rights.** Subject to the terms and conditions of this Agreement, by making this Agreement and delivery of the deeds, Agency is specifically not obligating itself, or any other agency with respect to any discretionary action relating to development or operation of the improvements to be constructed on the Project Site, 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.

8.20 **Approvals.** Except as otherwise provided in this Agreement, where approvals of Agency are required, Agency will approve or disapprove within thirty (30) business days after receipt of the material to be approved, except where a longer or shorter time period is specifically provided to the contrary. Failure by Agency to approve or disapprove within said period of time shall be deemed approval. Any disapproval shall state in writing the reasons for such disapproval. Approvals will not be unreasonably withheld, conditioned or delayed except where rights of approval are expressly reserved to Agency’s sole discretion in this Agreement. Developer, upon receipt of such disapproval, shall revise such disapproved portions in a manner responsive to the stated reasons for disapproval and resubmit the same to Agency within forty-five (45) days after receipt of the notice of disapproval.

8.21 **Approval by Agency Contract Manager.** Unless specified to the contrary elsewhere in this Agreement as to a particular consent or approval, whenever consent or approval by Agency is required under the terms of this Agreement, all such consents or approvals shall be given in writing from the Agency Contract Manager, or from such other staff as the Agency Board has designated.

8.22 **Recording of Memorandum of Agreement.** Agency shall 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 “E” to this Agreement. If the Agreement is terminated, the Parties shall cooperate to promptly record an Amended Memorandum of Agreement to reflect the surviving covenants of this Agreement.

8.23 **Insurance.** Agency shall continue the commercial property coverage for the Project Site, which it currently has in effect, until the Closing for purchase of the Project Site. Developer shall obtain and maintain in effect, until Closing for the purchase of the Project Site, a policy or policies of liability insurance with limits and coverage as set forth below:

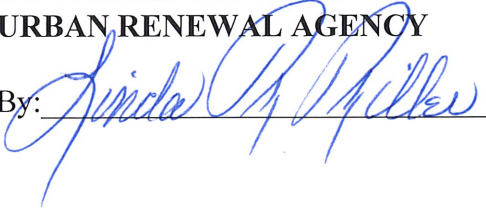
<u>Type of Insurance</u>	<u>Limits of Liability</u>
Commercial General Liability	\$1,000,000 (each occurrence)
Combined Single Limits	\$2,000,000 (aggregate)

Such policy or policy of Commercial General Liability insurance shall name as additional insured, "The Columbia Gateway Urban Renewal Agency, its officers, employees, and agents" with respect to claims arising from this Agreement.

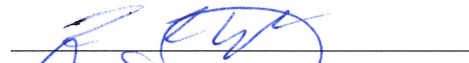
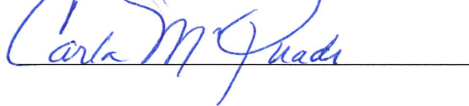
8.24 **Indemnification.** The Developer shall indemnify, defend, and hold harmless the Agency, its officers, employees, and agents, from all claims, demands, actions and suits, whether or not frivolous or groundless, including appeals, arising out of any negligent act, error, or omission of the Developer, or of any negligent act, error or omission performed by a contractor or subcontractor performing renovation work on or inside the Recreation Building.

Executed in multiple counterparts as of the day and year first above written.


**COLUMBIA GATEWAY
URBAN RENEWAL AGENCY**

By: 

DEVELOPER

By: 
By: 

APPROVED AS TO FORM:


Agency Legal Counsel

APPROVED AS TO FORM:


Developer Legal Counsel

EXHIBITS

- Exhibit A - Legal Description of the Project Site
- Exhibit B - Form of Warranty Deed
- Exhibit C - Schedule of Contract Payments, Progress Report Dates, and Annual Payment Periods
- Exhibit D - Quitclaim Deed and Escrow Instructions
- Exhibit E - Form of Memorandum of Agreement

EXHIBIT A
LEGAL DESCRIPTION OF THE PROJECT SITE

Assessor's Map 1N 13 3BD Tax Lot 3500:

The West 31 feet of Lot 7, Block 3 ORIGINAL DALLES CITY, Wasco County, State of Oregon

Assessor's Map 1N 13 3BD Tax Lot 3400:

The East 27 feet of Lot 7, Block 3, ORIGINAL DALLES CITY, Wasco County, State of Oregon

Assessor's Map 1N 13 3BD Tax Lot 3600:

Lot 8, Block 3, ORIGINAL DALLES CITY, in the City of The Dalles, Wasco County, State of Oregon

EXHIBIT B

GRANTOR:

Columbia Gateway Urban Renewal Agency
313 Court Street
The Dalles, OR 97058

GRANTEE:

Todd Carpenter & Carla McQuade
216 East 5th
The Dalles, OR 97058

**AFTER RECORDING
PLEASE RETURN TO:**

City Clerk
313 Court Street
The Dalles, OR 97058

**UNTIL A CHANGE IS REQUESTED,
SEND ALL TAX STATEMENTS TO:**

Todd Carpenter & Carla McQuade
216 East 5th
The Dalles, OR 97058

WARRANTY DEED

THE COLUMBIA GATEWAY URBAN RENEWAL AGENCY, a municipal corporation of the State of Oregon, Grantor, conveys and warrants to **TODD CARPENTER & CARLA MCQUADE**, as joint tenants, Grantee, that certain real property located in Wasco County, Oregon, more particularly described as follows:

Parcel 1:

The West 31 feet of Lot 7, Block 3 ORIGINAL DALLES CITY, Wasco County, State of Oregon

Parcel 2:

The East 27 feet of Lot 7, Block 3, ORIGINAL DALLES CITY, Wasco County, State of Oregon

Parcel 3:

Lot 8, Block 3, ORIGINAL DALLES CITY, in the City of The Dalles, Wasco County, State of Oregon

This conveyance is made pursuant to that Certain Agreement for Disposition of Property for Redevelopment located in Wasco County, between Grantor and Grantee, dated the ___ day of _____, 2019, a Memorandum of which was recorded on the ___ day of _____, 2019, as Document No. _____.

This conveyance is subject to a condition subsequent that in the event Grantee commits an act of default pursuant to Section 7.1 of the Agreement, Grantor shall have the right to declare a termination in favor of the Grantor of the title by providing Grantee a Notice of Termination, of all the rights and interests of the Grantee in the real property described herein. Grantee shall reconvey the real property described in the Notice of Termination to Grantor by Quitclaim Deed, pursuant to the Escrow Instructions in Exhibit D to the Agreement for Disposition of Property and Redevelopment.

EXHIBIT C

**SCHEDULE OF CONTRACT PAYMENTS, AND DATES FOR
PROGRESS REPORTS TO BE PROVIDED TO AGENCY**

January 25, 2019 - First installment contract payment of \$10,000 by Developer

January 25, 2020 – Second installment contract payment of \$10,000 by Developer. Status report on initial roof repair and façade improvements to Recreation Building by Developer

January 25, 2021 - Third installment contract payment of \$15,000 by Developer. Status report detailing substantial progress on rehabilitation and restoration of Recreation Building by Developer

January 25, 2022 – Fourth and final installment contract payment of \$15,000 by Developer. Status report detailing substantial progress on rehabilitation and restoration of Recreation Building by Developer

On or about February 1, 2022 - Closing Date for purchase of Project Site

EXHIBIT D

FORM OF QUITCLAIM DEED AND ESCROW INSTRUCTIONS

After recording return to and,
until a change is requested,
all tax statements shall be sent to:

Columbia Gateway Urban Renewal Agency
313 Court Street
The Dalles, OR 97058

QUITCLAIM DEED

_____, a _____ (“Grantor”), releases and
quitclaims to the COLUMBIA GATEWAY URBAN RENEWAL AGENCY, as the duly designated
Urban Renewal Agency of the City of The Dalles (which, together with any successor public agency
designated by or pursuant to law, is herein called “Grantee”), all right, title and interest in and to the
following described real property:

Parcel 1:

The West 31 feet of Lot 7, Block 3 ORIGINAL DALLES CITY, Wasco County, State of Oregon

Parcel 2:

The East 27 feet of Lot 7, Block 3, ORIGINAL DALLES CITY, Wasco County, State of Oregon

Parcel 5:

Lot 8, Block 3, ORIGINAL DALLES CITY, in the City of The Dalles, Wasco County, State of
Oregon

The true consideration for this conveyance is \$0; however, other property or value was either
part of or the whole consideration.

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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND
SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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

EXHIBIT D (Continued)

ESCROW INSTRUCTIONS FOR QUITCLAIM DEED

_____ Title Insurance Company

Attention: [INSERT TITLE OFFICER]

Re: Escrow No. _____

_____, a _____ (“Developer”), has entered into that certain Agreement for Disposition of Property for Redevelopment (“DDA”) with the Columbia Gateway Urban Renewal Agency (“Agency”) dated as of _____, 20__, a Memorandum of which was recorded _____, 20__ as Document No. _____, Records of Wasco County, Oregon, whereby Agency will convey to the Developer 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 ____ of the DDA provides that, under certain circumstances, Agency is entitled to reconveyance of the Property pursuant to a Quitclaim Deed and Escrow Instructions. 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 Agency’s _____ certifying that a copy of said notice has been delivered concurrently to Developer and certifying that a termination in favor of Agency of the title, and of all of the rights and interest of Developer in the Property has occurred, and that rights to the Property described in the Quitclaim Deed have reverted in Agency pursuant to the DDA (“Notice of Termination”), you shall at the end of thirty (30) days after receipt of said instructions record the subject Quitclaim Deed unless within said thirty (30) day period, you are notified by Agency that 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 issued by Agency with respect to the Property, or any specified Parcel thereof (either an original or one certified by Agency as being a duplicate of the original), you will forthwith return the Quitclaim Deed to Developer. In the event that there still remains in your possession an undisposed Quitclaim Deed by [insert date thirty six (36) months after execution of the DDA] you shall contact Agency and Developer as to its disposition.

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,

_____, a _____

By: _____

Name: _____

Title: _____

Very truly yours,

COLUMBIA GATEWAY URBAN RENEWAL AGENCY

By: _____

Name: _____

Title: _____

Accepted and agreed to this ___ day of _____, 20___
_____, Title Insurance Company

By: _____

Name: _____

Title: _____

EXHIBIT E
FORM OF MEMORANDUM OF AGREEMENT

After recording return to:

Mr. Gene Parker
City Attorney
City of The Dalles
313 Court Street
The Dalles, OR 97058

Form of Memorandum of Agreement for Disposition for Development

THIS MEMORANDUM OF AGREEMENT FOR DISPOSITION OF PROPERTY FOR DEVELOPMENT (“Memorandum”) shall serve as notice to all persons that the **COLUMBIA GATEWAY URBAN RENEWAL AGENCY**, (“Agency”), and **TODD CARPENTER & CARLA MCQUADE**, as joint tenants (“Developer”), entered into an **AGREEMENT FOR DISPOSITION OF PROPERTY FOR REDEVELOPMENT**, dated as of _____, 2019 (“Agreement”) relating to the real property (“Property”) to be conveyed by the Agency located in Wasco County, Oregon. The Property is more particularly described as:

Parcel 1:

The West 31 feet of Lot 7, Block 3 ORIGINAL DALLES CITY, Wasco County, State of Oregon

Parcel 2:

The East 27 feet of Lot 7, Block 3, ORIGINAL DALLES CITY, Wasco County, State of Oregon

Parcel 5:

Lot 8, Block 3, ORIGINAL DALLES CITY, in the City of The Dalles, Wasco County, State of Oregon

The parties to the Agreement are:

Columbia Gateway Urban Renewal Agency
313 Court Street
The Dalles, OR 97058

and

Todd Carpenter & Carla McQuade
216 East Fifth Street
The Dalles, OR 97058

Among other things, the Agreement requires the Agency to convey the Property to Developer upon the satisfaction of certain conditions precedent, and requires Developer to complete certain private improvements on the Property all as more particularly set forth in the 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 Property conveyance, in the event of a default by Developer as defined in Section 7.3 of the Agreement, the Agency shall have the option to declare a termination in favor of the

Agency of all the title, rights and interests of Developer in the Property. Upon such declaration of termination, Developer's title, right and interest in the Property shall revert to the Agency at no cost to the Agency.

Agency and Developer execute this Memorandum to acknowledge being bound by the Agreement and to give notice of the Agreement to third parties.

COLUMBIA GATEWAY URBAN RENEWAL AGENCY:

By: _____

Date: _____

BUYER

By: _____
Todd Carpenter

Carla McQuade

Date: _____

STATE OF OREGON)
) ss.
COUNTY OF WASCO)

This instrument was acknowledged before me on _____, 20____, by _____, _____ of the COLUMBIA GATEWAY URBAN RENEWAL AGENCY.

Notary Public for
My commission expires: _____

STATE OF OREGON)
) ss.
COUNTY OF WASCO)

This instrument was acknowledged before me on _____, 20____, by Todd Carpenter and Carla McQuade, as their voluntary act and deed.

Notary Public for
My commission expires: _____

ATTACHMENT C

FIRST ADDENDUM TO AGREEMENT FOR DISPOSITION OF PROPERTY FOR REDEVELOPMENT OF RECREATION BUILDING

WHEREAS, the Columbia Gateway Urban Renewal Agency, hereinafter referred to as “Agency”, and Todd Carpenter and Carla McQuade, hereinafter referred to as “Developer” entered into an Agreement for the disposition of property for redevelopment of the property commonly referred to as the Recreation Building, on January 25, 2019; and

WHEREAS, the January 25, 2019 Agreement included a schedule for installment payments, and also contemplated that repairs to the roof of the Recreation Building would be completed within one year from the date of execution of the Agreement; and

WHEREAS, on August 10, 2019, a partial roof collapse occurred to the Recreation Building, which would prevent the Developer from being able to comply with the condition requiring that repairs to the roof of the Recreation Building be completed within one year from date of execution of the Agreement; and

WHEREAS, Agency and Developer have negotiated the terms of an amendment to the January 25, 2019 Disposition and Development Agreement (“DDA”), which acknowledges the parties will likely need to negotiate further revisions to the January 25, 2019 DDA. These revisions could include revisions to the scope of the redevelopment, revised timelines for completion of the architectural design for façade improvements and completion of façade improvements for the Recreation Building, and possible revisions to the purchase price and installment payments to be paid by Developer to the Agency;

NOW, THEREFORE, in consideration of the terms and provisions set forth in this First Addendum, it is mutually agreed as follows:

1. The third sentence in the second paragraph of Section 2.3.1 on page 2 shall be amended to provide the second payment of \$10,000 to be paid within eighteen (18) months from the date of execution of the Agreement.
2. Section 2.6.1(a) on page 4 shall be amended by adding a subsection (3) which shall read as follows:
 - (3) Developer and Agency have mutually agreed upon a revised scope for redevelopment of the Project Site, including a designation of which portions of the three buildings which make up the Project Site will be redeveloped by Developer; a timeline for completion of the architectural design for improvements to the façade of the Recreation Building, and for completion of construction of said façade improvements. Improvements shall comply with any requirements of Chapter 11.12 of the City of The Dalles Municipal Code concerning historic resources; and if necessary, any revisions to the purchase price and installment

payments to be made by the Developer to the Agency and to the schedule of status reports concerning the rehabilitation and restoration of the Recreation Building to be provided by the Developer to the Agency.

3. Section 2.6.1(b)(1) on page 4 shall be amended to read as follows:

(1) Developer and Agency have mutually agreed upon a revised scope for redevelopment of the Project Site, including a designation of which portions of the three buildings which make up the Project Site will be redeveloped by Developer; a timeline for completion of the architectural design for improvements to the façade of the Recreation Building, and for completion of construction of said façade improvements. These improvements shall comply with any requirements of Chapter 11.12 of the City of The Dalles Municipal Code concerning historic resources; and if necessary, any revisions to the purchase price and installment payments to be made by the Developer to the Agency, and to the schedule of status reports concerning the rehabilitation and restoration of the Recreation Building to be provided by the Developer to the Agency.

4. Exhibit C on page 20 shall be amended by changing the due date for payment of the second installment payment to June 25, 2020.

5. Except as modified by this First Addendum, the terms and conditions of the Development and Disposition Agreement entered into on January 25, 2019, shall remain in full force and effect.

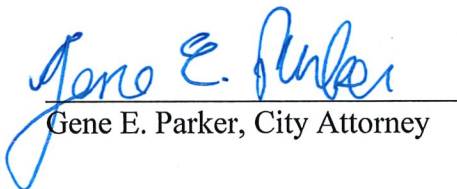
Dated this 28th day of January, 2020.

AGENCY

By: 

Gary Grossman, Chair

Approved as to form:


Gene E. Parker, City Attorney

DEVELOPER

By: 

Todd Carpenter

By: 

Carla McQuade

ATTACHMENT D

SECOND ADDENDUM TO AGREEMENT FOR DISPOSITION OF PROPERTY FOR REDEVELOPMENT OF RECREATION BUILDING

WHEREAS, the Columbia Gateway Urban Renewal Agency, hereinafter referred to as “Agency”, and Todd Carpenter and Carla McQuade, hereinafter referred to as “Developer” entered into an Agreement for the Disposition of Property for Redevelopment of the property commonly referred to as the Recreation Building on January 25, 2019, which Agreement is hereinafter referred to as “DDA”; and

WHEREAS, on January 28, 2020, Agency and Developer entered into a First Addendum for the DDA, which contemplated revisions to the DDA, including changes to the dates of payments to be made by the Developer for purchase of the properties constituting the Project Site, and a revised scope of redevelopment and revised timelines for completion of the façade improvements for the Recreation Building and other structures to be built upon the Project Site; and

WHEREAS, Agency and Developer have negotiated the terms of a Second Addendum to the January 25, 2019 DDA, which addresses the revisions outlined in the First Addendum to the DDA;

NOW, THEREFORE, in consideration of the terms and provisions set forth in this Second Addendum, it is mutually agreed as follows:

1. Paragraphs 2.1 through 2.6 of Section 2. **GENERAL TERMS OF CONVEYANCE** shall be revised to read as follows:
2. **GENERAL TERMS OF CONVEYANCE**

2.1 **Identification of Project Site.** The Project Site consists of three separate tax parcels: Parcel #1 (1N 13E 3BD Tax Lot 3400) located at 219 East Second Street; Parcel #2 (1N 13E 3BD Tax Lot 3500) located at 215 East Second Street; and Parcel #3 (1N 13E 3BD Tax Lot 3600) located at 213 East Second Street. These three parcels are popularly known as the Recreation Building property, and are referred to in this Agreement as the Project Site, and identified more specifically in Exhibit A. The Agency shall convey the parcels as provided in this Agreement in accordance with the scheduled closing dates set forth herein.

2.2 **Form of Deeds.**

2.2.1 Agency and Developer understand and agree that conveyance of title for the three separate parcels described in Section 2.1 shall be done through separate closings for each individual parcel. Following the closing for any individual parcel, upon satisfaction of the Conditions Precedent to Conveyance as set forth in Section 2.6.1 hereof, the Agency will convey title to the individual parcel to Developer pursuant to a Warranty Deed in substantially the form attached hereto as Exhibit B.

2.3 **Purchase Price.** The Purchase Price for the Project Site is as follows:

2.3.1 The actual purchase price in terms of monetary consideration is \$50,000. The purchase price for the three parcels is allocated as follows: Parcel #1 - \$12,500;

Parcel #2 - \$12,500; and Parcel #3 - \$25,000. The purchase price reflects the fair reuse value, expressed in terms of capital price, as determined by the Agency in its discretion as the price necessary to facilitate development or redevelopment of the Project Site in accordance with the provisions of the Agency's Urban Renewal Plan.

The sum of \$50,000 shall be paid in four installment payments. The first payment of \$10,000 was paid upon execution of this Agreement. The second payment of \$7,500 for Parcel #1 shall be paid at closing (scheduled for October 1, 2020) following the issuance of a certificate of occupancy for the structure to be built upon Parcel #1, which certificate of occupancy is anticipated to be issued prior to October 1, 2020. If additional time is needed for Developer to obtain the certificate of occupancy for the structure to be built upon Parcel #1, Agency and Developer agree the time for closing for Parcel #1 may be extended to March 31, 2021. The third payment of \$7,500 for Parcel #2 shall be paid at closing (scheduled for December 31, 2020) following the issuance of a certificate of occupancy for the structure to be built upon Parcel #2, which certificate of occupancy is anticipated to be issued prior to December 31, 2020. If additional time is needed for Developer to obtain the certificate of occupancy for the structure to be built upon Parcel #2, Agency and Developer agree the time for closing for Parcel #2 may be extended to June 30, 2021. The fourth payment of \$25,000 for Parcel #3 shall be paid at closing which is scheduled to occur on or before June 1, 2022. The dates for payment of the first, second, third and fourth installments and the projected closing dates are listed in Exhibit "C".

2.4 Title Review. The following title review process will apply to the purchase of the three parcels which constitute the Project Site.

2.4.1. Not later than five (5) business days after receipt of the preliminary title report for the transaction involving acquisition of any individual parcel by Developer, Agency shall deliver to Developer a copy of the preliminary title report for the specified individual parcel. Developer shall notify Agency within five (5) business days of any objection to the preliminary title report or the exceptions to title. Within five (5) business days after Developer's written notice to Agency described in the preceding sentence, Agency shall notify Developer in writing of its intention to remove, or not remove, the objectionable exceptions to title prior to Closing for the specified parcel. If Agency refuses to remove any such objected to exceptions, Developer may terminate this Agreement or proceed to close subject to same. Any exceptions to which Developer does not timely object in writing or otherwise accepts at Closing are the "Final Permitted Exceptions."

2.4.2 Agency covenants and agrees that it shall not further encumber any of the three parcels constituting the Project Site after the date hereof (other than those exceptions appearing on the Title Report on the date provided to Developer) without the written consent of Developer, which consent shall not be unreasonably withheld, conditioned or delayed.

2.5 Title Insurance, Survey, Property Taxes and Closing Costs. The following provisions will apply to the purchase of any of the parcels constituting the Project Site.

2.5.1 The Agency, at its expense, shall provide Developer with a standard coverage ALTA Owner's Policy of Title Insurance, issued by Wasco Title, covering the specific

parcel to be purchased insuring Developer in the amount of the Purchase Price for the specific parcel, all free and clear of encumbrances except the standard exceptions and the Final Permitted Exceptions. Developer, at its option and its expense, may elect to obtain extended coverage under such policies of title insurance, and the Agency agrees to execute any affidavits or other documents required by Wasco Title to enable Developer to obtain such coverage.

2.5.2 The costs for recording a Memorandum of this Agreement, the Deed for any specified parcel and any other documents required by the transaction set forth herein to be recorded will be paid by Agency.

2.5.3 Any assessments on any of the conveyed parcels shall be paid in full by the Developer as of the Closing Date. All other Closing costs, if any, shall be allocated in accordance with the customary practice in Wasco County.

2.5.4 The Developer shall pay personal property taxes which are assessed as of January 1st of any calendar year. For example, if the Developer installs equipment in any building on the Project Site during the remainder of the 2020 calendar year, Developer shall pay the tax assessed upon the personal property which is present in the building as of January 1, 2021. Real property taxes assessed upon any specified parcel shall be paid by the Developer under either of the following scenarios; (a) as a result of the Developer's occupation of the specified parcel and the opening of that parcel for the any use; or (b) from and after the Closing Date when title to the specified parcel is conveyed to the Developer.

2.6 **Conditions Precedent to Conveyance.**

2.6.1 **Conditions Precedent to Conveyance of Project Site.** Developer and the Agency are not obligated to close the transfer of the individual parcels which constitute the Project Site unless the following conditions are satisfied to the reasonable satisfaction of, or waived by, the benefited Party. The Party benefited by a particular condition shall not unreasonably withhold or delay acknowledgment that the condition has been satisfied. The Parties shall act diligently and in good faith to satisfy conditions over which they have control or influence.

(a) Developer is not obligated to purchase the three parcels which constitute the Project Site until, to Developer's satisfaction:

(1) Agency shall have given Developer satisfactory proof of marketable title and the issuance of a preliminary title insurance commitment evidencing the willingness of a title insurance company to insure each of the individual parcels which constitute the Project Site, subject only to the standard exceptions and the Final Permitted Exceptions;

(2) No litigation is pending which prevents the Agency or Developer from performing their respective obligations under this Agreement.

(b) Agency is not obligated to sell the three parcels which constitute the Project Site until, to the Agency's satisfaction:

(1) For Parcels #1 and #2, Developer must provide Agency with a copy of the certificate of occupancy for the structures to be built upon these parcels. The copy of the certificate of occupancy for the structure to be built upon Parcel #1 must be provided no later than October 1, 2020, subject to the extension of time provided for in Section 2.3.1. The copy of the certificate of occupancy for the structure to be built upon Parcel #2 must be provided no later than June 30, 2021, subject to the extension of time provided for in Section 2.6.2.

(2) For Parcel #3, Developer must have completed the façade improvements for the Recreation Building which are being funded by a grant obtained through the Main Street Program by the deadline provided under the grant program which is April 30, 2022.

Developer shall also have obtained the approval of the City's Historic Landmark Commission for the proposed design of the façade improvements. The façade improvements shall comply with any requirements of Chapter 11.12 of the City of The Dalles Municipal Code concerning Historic Resources. Prior to February 1, 2022, Developer shall have submitted a proposed redevelopment plan for Parcel #3 to Agency for the Agency's review and comment. By March 15, 2022, the Agency shall approve the proposed plan, or provide Developer with specific provisions which need to be addressed to obtain Agency's approval of the proposed redevelopment plan. Developer shall submit a revised redevelopment plan to Agency by April 5, 2022. If the revised redevelopment plan is not approved by the Agency by April 30, 2022, this Agreement shall be terminated.

(3) Developer agrees that on the dates which coincide with the closing dates for Parcels #1 and #2, they will provide a written report to the Agency detailing the improvements which have occurred, showing that the Developer has made substantial progress toward the redevelopment and rehabilitation of the Recreation Building. The reports provided by Developer shall include confirmation that the physical upgrades to the Recreation Building have been performed in a satisfactory and workmanlike manner, which requires that the Developer shall be responsible for ensuring that applicable codes and regulations required for the physical upgrades, including, but not limited to, building, fire, plumbing, and Americans with Disabilities Act requirements, shall have been complied with in the completion of the physical upgrades.

2.6.2 Elections upon Non-Occurrence of Conditions. Except as provided below, if any condition in Section 2.6.1 is not fulfilled to the satisfaction of the benefited Party or Parties on the date scheduled for Closing for the parcels which constitute the Project Site, subject to any extension that may be granted pursuant to this Section 2.6.2, or elsewhere in this Agreement, then such benefited Party or Parties may elect to:

- (a) Terminate this Agreement, which termination shall become 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

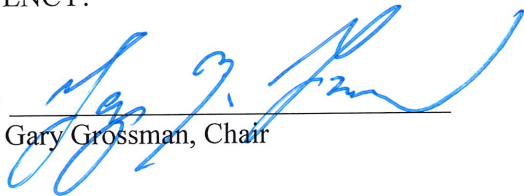
(b) Waive in writing the benefit of that condition precedent to its obligation to perform under this Agreement, and proceed in accordance with the terms hereof; or

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

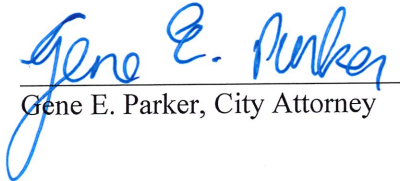
3. Exhibit C shall be replaced with the revised Exhibit C attached hereto.
4. Except as modified by the First Addendum dated January 28, 2020 and this Second Addendum, the terms and conditions of the Development and Disposition Agreement entered into on January 25, 2019, shall remain in full force and effect.

Dated this 10th day of March, 2020.


AGENCY:

By: 
Gary Grossman, Chair

Approved as to form:


Gene E. Parker, City Attorney

DEVELOPER:

By: 
Todd Carpenter

By: 
Carla McQuade

EXHIBIT C - REVISED

**SCHEDULE OF CONTRACT PAYMENTS AND CLOSINGS, AND DATES FOR
PROGRESS REPORTS TO BE PROVIDED TO AGENCY**

January 25, 2019 - First installment contract payment of \$10,000 was paid by Developer.

October 1, 2020 – Second installment contract payment of \$7,500 by Developer. Copy of certificate of occupancy to be provided by Developer. Status report on façade improvements and structure constructed upon Parcel #1 to be provided by Developer. Closing date for Parcel #1. The date for payment of the installment and for closing may be extended as provided for in Section 2.3.1.

December 31, 2020 - Third installment contract payment of \$7,500 by Developer. Copy of certificate of occupancy to be provided by Developer. Status report on façade improvements and structure constructed upon Parcel #2 to be provided by Developer. Closing date for Parcel #2. The date for payment of the installment and for closing may be extended as provided for in Section 2.3.1.

April 30, 2022 – Façade improvements completed for Recreation Building.
Redevelopment plan provided by Developer for Parcel #3 approved by Agency.

June 1, 2022 – Fourth installment contract payment of \$25,000 by Developer. Closing Date for purchase of Parcel #3.