GRESHAM
REDEVELOPMENT COMMISSION

AGENDA ITEM TYPE: DECISION

Amendment No. Three to Rockwood Rising, LLC Land Development Agreement

Meeting Date: August 18, 2020 **Agenda Item Number:** E-1

REQUESTED COMMISSION ACTION

Move to approve Amendment No. Three to the Rockwood Rising Land Development Agreement for redevelopment of the Catalyst Site.

PUBLIC PURPOSE AND COMMUNITY OUTCOME

The purpose of Amendment No. Three to the Land Development Agreement (LDA) is to modify the manner in which site control is conveyed to the developer, and to update the development budget, timeline, and other administrative considerations in the agreement between the Gresham Redevelopment Commission (GRDC) and RKm Development, Inc. that are required to finalize construction financing for redevelopment of the Catalyst Site.

Redevelopment of the Catalyst Site is included in the 2020 GRDC Work Plan, and furthers the following Rockwood-West Gresham Renewal Plan Goals: Goal 1 (Public Involvement), Goal 2 (Improve Rockwood Town Center), Goal 3 (Increase Availability of Quality Housing), Goal 4 (Help Create and Retain Family Wage Jobs by Improving Industrial and Commercial Areas), Goal 6 (Parks and Recreation Facilities), Goal 7 (Improve Transportation), and Goal 8 (Promote Quality Development).

BACKGROUND

On June 19, 2018, the GRDC approved two LDAs and two ground leases with RKm Development for development of the Catalyst Site. Since that time, the developer has completed Building D, is nearly complete with Building A, and has completed design and secured financing for Building C and the Plaza, including securing commitments for multiple allocations of New Markets Tax Credits.

In order to facilitate closing of financing for Building C and the Plaza, an Amendment to the LDA is required. This Amendment modifies the LDA as follows:

- Re-inserts references to the Market Hall (including affordability provisions) into the Ground Lease. These provisions were previously approved by the GRDC and will be re-inserted for Phase II (Building C and Public Plaza).
- Establishes a nonprofit entity as the Tenant under the Phase II Ground Lease (Attachments J and K). As part of the New Markets Tax Credit financing structure, two nonprofit entities need to be creased: (i) Rockwood Market Hall is organized as the

operating entity that will own and operate the facility, and; (ii) Rockwood Food is created to hold the financial rights and responsibilities under the tax credit structure. RKm Development and its affiliates will continue to be financially responsible for the development, providing the senior construction loan, leasing subtenant spaces, managing the property on behalf of the nonprofit entities, and ensuring the overall success of the Market Hall.

- Creates a Management Agreement for operation and management of the Market Hall between RKm Management, LLC and Rockwood Market Hall, Inc.
- Creates a Consent, Subordination, Non-Disturbance and Attornment Agreement (CSNDA) for Phase II of the Project. The purpose of this document is to create consensus among the financial entities, including the GRDC, regarding various provisions and interests related to financing of the Project. A similar CSNDA was previously approved and executed for Phase I of the Project.
- Updates the exhibits to the LDA related to site plan, legal description, development budget, timeline, and costs spent to date for this phase.

In all other respects, the LDA and Ground Lease for the project shall remain in full force and effect.

RECOMMENDATION AND ALTERNATIVES

Recommendation:

Move to approve Amendment No. Three to the Rockwood Rising Land Development Agreement for redevelopment of the Catalyst Site.

Alternatives:

The GRDC could direct the Executive Director to refine the terms of the Amendment to the Rockwood Rising LDA.

The GRDC could direct staff not to proceed with the Amendment to the LDA.

BUDGET / FINANCIAL IMPACT

This Amendment does not change the total GRDC financial contribution to the project. The remaining $4,244,378 to complete the $11.5 million GRDC contribution and Parks System Development Charges (SDC's) compensation of $629,386 will be allocated to Building C and the Plaza when financing closes for this phase.

PUBLIC INVOLVEMENT

The Gresham Redevelopment Commission Advisory Committee recommended Amendment No. Three Land Development Agreement for Rockwood Rising on May 13, 2020.

NEXT STEPS

RKm Development will proceed to close financing for Building C and the Plaza, and the parties will sign the Phase II Ground Lease, at which time control of portions of the property related to Building C and the public plaza will transfer to Rockwood Market Hall, Inc. The GRDC Interim Executive Director will issue a Notice to Proceed to commence construction of Building C and the Plaza.

ATTACHMENTS

A. Ground Lease Rockwood Rising Phase II
B. Amendment No. Three Land Development Agreement for Rockwood Rising

C. Consent, Subordination, Non-Disturbance and Attornment Agreement
D. Partial Termination of Ground Lease
E. Phase II Access Area License Agreement
F. Amendment No. 1 to Access Area License Agreement
G. Site Plan and Legal Description
H. Rockwood Rising Development Budget (Building C) and Rockwood Market Hall Draft Master Schedule
I. Additional Costs Since June 5, 2018 Master Lists Costs Paid by the Gresham Redevelopment Commission on Behalf of Rockwood Rising Management, LLC to be Deducted from Second Payment to Rockwood Rising Management, LLC (Excluding Building D and Building D Only)
J. Articles of Incorporation of Rockwood Market Hall and Bylaws of Rockwood Market Hall
K. Articles of Incorporation of Rockwood Food and Bylaws of Rockwood Food
L. Rockwood Market Hall Management Agreement

FROM

Emily Bower, Interim Executive Director

REVIEWED THROUGH

Kevin McConnell, City Attorney
Sharron Monohon, Budget and Finance Director
Brian Monberg, Office of Governance and Management

FOR MORE INFORMATION

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Attachment A

EXHIBIT B

GROUND LEASE ROCKWOOD
RISING PHASE II

This GROUND LEASE (this "Lease") is made and entered into on August ____, 2020 (the "Commencement Date"), by and between GRESHAM REDEVELOPMENT COMMISSION, the duly authorized and acting urban renewal agency of the City of Gresham, Oregon ("Landlord"), and ROCKWOOD MARKET HALL, an Oregon nonprofit corporation ("Tenant").

RECITALS

A. In furtherance of the objectives of Oregon Revised Statutes Chapter 457 and Article 2.24 of the Gresham Revised Code, Landlord has undertaken a program for the development and redevelopment of blighted areas within the city limits and in connection therewith prepared an Urban Renewal Plan for the Rockwood-West Gresham Urban Renewal Area, which was approved by the citizens of Gresham by city-wide vote on November 4, 2003 as required by Section 36A of the Charter of the City of Gresham.

B. Landlord, finding it necessary and in the public interest to implement the Urban Renewal Plan, acquired the property in the Rockwood-West Gresham Urban Renewal Area as described in Exhibit A (the "Property").

C. Landlord intends for the Property to serve as a catalyst for further redevelopment to further the following Rockwood-West Gresham Renewal Plan Goals:

- Goal l Public Involvement;
- Goal 2 Improve Rockwood Town Center;
- Goal 4 Help Create and Retain Family Wage Jobs by Improving Industrial and Commercial Areas;
- Goal 6 Parks and Recreation Facilities;
- Goal 7 Improve Transportation;
- Goal 8 Promote Quality Development;

D. In furtherance of these redevelopment objectives, on September 16, 2015, Landlord issued Request for Expressions of Interest Number 16-03 for redevelopment of the Property.

E. On November 17, 2015, Landlord selected RKm Development, Inc. ("RKm") as the developer for the Property, and Landlord and Tenant entered into negotiations for conveyance of an interest in the Property to Tenant and for Tenant's redevelopment of the Property as "Rockwood Rising."

F. GRDC and RKm negotiated a Land Development Agreement ("LDA") dated as of June 19, 2018, setting forth the terms and conditions under which Landlord will convey a leasehold interest in the Property. As amended, the LDA grants rights to develop the land indicated as parcel 1 on Partition Plat No. 2019-53 ("Phase II Property"), as a plaza, central parking area, Building C comprised of retail on the a ground floor ("Market Hall") and office on the second and third floors, and related site improvements (collectively, the "Phase II Development").

G. Amendment No. 3 to the LDA assigns to Tenant all rights and obligations of the "Developer" under the LDA to undertake the Phase II Development.

H. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Phase II Property, described as parcel 1 of Partition Plat No. 2019-53, attached hereto as Exhibit B, together with any and all rights, privileges, easements, and appurtenances (collectively, the "Premises"). The Premises consists of approximately 77,184 square feet and is located within the approximately five-acre Catalyst Site, bounded by SE Stark Street, SE 188th Avenue, SE 185th Avenue and E Burnside Street, directly south of the Rockwood/E 188th Street MAX Station.

I. Tenant will construct on the Premises the Phase II Development as approved pursuant to City of Gresham land use approval in File No.: DRE/VAR/SUR/TR 16-26000409, attached hereto as Exhibit C (the "Project"). The Project and any future alterations, additions, replacements, or modifications to the Project during the Term (defined in Section 2.2) of this Lease are collectively referred to in this Lease as the "Improvements."

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Lease agree as follows:

Article 1
PREMISES

Landlord does hereby demise, lease, and let unto Tenant, and Tenant does hereby take and lease from Landlord, the Premises for the term and on the rents, conditions, and provisions herein.

Article 2
LEASE TERM

2.1 **Initial Term.** Starting on the Commencement Date, the Premises will be leased for a term of sixty (60) years (the "Initial Term"), unless earlier terminated pursuant to the terms of this Lease.

2.2 **Extension Terms.**

(a) First Extension. If Tenant is not then in default under the Lease, Tenant has the option to extend the Initial Term for an additional period of twenty (20) years (the "First Extension Term") by providing written notice thereof to Landlord no less than one- hundred eighty (180) days before the expiration of the Initial Term (the Initial Term, if and as extended by the First Extension Term, is referred to in this Lease as the "Term"). Upon exercise of this option to extend, the term of this Lease will be extended through the expiration date of the First Extension Term, on the same terms and conditions as contained in this Lease, except for Rent (which will be determined in accordance with Section 3.2 below).

(b) Second Extension. If at the end of the First Extension Term, Tenant is not then in default under the Lease, Tenant has the option to extend the First Extension Term for an additional period of nineteen (19) years (the "Second Extension Term") by providing written notice thereof to Landlord no less than one-hundred eighty (180) days before the expiration of the First Extension Term (the Initial Term, First Extension Term and Second Extension Term, if and as extended by the Extension Terms, is referred to in this Lease as the "Term"). Upon exercise of this second option to extend, the term of this Lease will be extended through the expiration date of the Second Extension Term, on the same terms and conditions as contained in this Lease, except for Rent (which will be

determined in accordance with Section 3.2 below), and except that Tenant will no longer have an extension option.

Article 3
RENT

3.1 **Rent for Initial Term.** Tenant agrees to pay to Landlord annual rent in the amount of three percent (3%) of Appraised Value (as defined below) of the Property ("Rent") beginning on the first day of the first whole month that is eight (8) years after issuance of a certificate of occupancy by the City of Gresham for the Project (the "Rent Commencement Date"). The annual Rent due on the first anniversary of the Rent Commencement Date will be six percent (6%) of Appraised Value, and the Annual Rent payment so calculated shall increase or decrease each year thereafter by any CPI adjustment described below, but in no event will annual Rent be decreased below six percent (6%) of Appraised Value.

(a) **CPI Adjustment.** Each annual Rent payment after the first anniversary of the Rent Commencement Date (each, an "Adjustment Date"), shall be increased or decreased based on the percentage increase or decrease, if any, in the Consumer Price Index (the "Index") published by the United States Department of Labor, Bureau of Labor Statistics. The increase or decrease will be computed by comparing the schedule entitled "U.S. City Average, All Items, All Urban Consumers, 1982-84=100" for the latest available month preceding the month in which the previous Adjustment Date occurred (or for the first Adjustment Date, the month preceding the first anniversary of the Rent Commencement Date), and the same month preceding the current Adjustment Date. All comparisons will be made using Index figures derived from the same base period. If the Index cited above is revised or discontinued during the Term, a replacement government index shall be used which will yield substantially the same result as the original Index.

(b) **Determination of Appraised Value.** For purposes of this Lease, "Appraised Value" shall mean the most probable cash sales price of the Premises, as bare land, without improvements or entitlements, on a per square foot of land area basis, determined as of one month prior to the Commencement Date. The following shall apply to the determination of Appraised Value:

(i) The Premises shall be valued (exclusive of the diminution in value resulting from the existence of this Lease) based on a competitive and open market under conditions requisite to a fair sale, considering the following factors:
(a) the parties are motivated; (b) the parties are well informed or well advised and each party is acting according to what it considers to be its own best interests; (c) a reasonable time is allowed for exposure in the open market; (d) payment is made in cash in U.S. Dollars, or other comparable financial arrangement; (e) the price represents the normal consideration for the Premises unaffected by special or creative financing or concessions granted by any person associated with the transaction; (f) the Premises is clean and uncontaminated; (g) the Premises value is based on its highest and best legal use, subject to current zoning and land-use laws and regulations, and all liens, claims, and encumbrances of record; and (h) the amount of rent paid under current leases of comparable properties.

(ii) Six months prior to the Rent Commencement Date, the parties shall retain an Oregon licensed MAI appraiser to determine the Appraised Value. The appraiser selected must have a minimum often years' commercial property appraisal experience including experience in appraising commercial properties of the nature of the Premises within the Portland, Oregon metropolitan area. The parties will share (in equal amounts) the cost of the appraisal.

(iii) If the parties cannot agree on a qualified appraiser within fifteen (15) days, each party will have fifteen (15) days following that 15-day period to select, and independently pay for, a qualified appraiser to determine the Appraised Value. Each appraiser selected must complete its final appraisal report and deliver a copy to each party within sixty (60) days of its selection. If the appraised values determined by the appraisals differ by no more than ten (10) percent of the appraised value of the higher appraisal, then the Appraised Value is the average of both appraisals. If the appraised values of the appraisals differ by more than ten (10) percent of the appraised value of the higher appraisal, then within ten (10) days after the date the appraisals are compared, the appraisers must appoint a third qualified appraiser; provided, however, that if the appraisers fail to so select a third appraiser, a third qualified appraiser must be appointed at the request of either party by the presiding judge of the Circuit Court of Multnomah County, Oregon. The sole responsibility of the third appraiser is to determine which of the appraisals is most accurate, and the third appraiser has no right to propose a middle ground or modify either of the appraisals. The third appraiser's choice must be submitted to the parties within fifteen (15) days after the third appraiser receives copies of the appraisals, and the choice of the third appraiser is conclusively binding on the parties. The parties will share (in equal amounts) the cost of the third appraiser.

(c) **Abatement of Annual Rent.** Notwithstanding anything in this Article 3 to the contrary, the annual Rent owed under this Lease shall be reduced by the amount necessary for Tenant to maintain a Debt Coverage Ratio for the trailing 12-month period equal to or greater than 1.0. For purposes of this determination, the "Debt Coverage Ratio" shall be calculated as follows, and as further explained in Exhibit D attached hereto:

Adjusted Net Operating Income ("NOI", as defined below), reduced by Capital Expenditures and Reserve Payments (excluding reserve payments for taxes and insurance as included in Operating Expenses), Operating Reserve (average one month Operating Expenses as incurred over the previous 12 months excluding mortgage interest, or one month mortgage interest, whichever is less), which sum shall be divided by the total sum of all principal and interest payments made on project financing during the preceding 12-month period.

For purposes of determining the Abatement of Annual Rent, NOI shall mean all Operating Income for the trailing twelve month period less Operating Expenses (including the current Rent due but excluding Rent paid for the prior year, mortgage interest, depreciation and amortization) for the same period. Income and Expenses will be determined on an accrual basis in accordance with GAAP. By way of example:

If the Rent payment is due on July 1, 2019 then the data from 7/1/2018 to 6/30/2019 would be used to determine the amount of Rent due on July 1, 2019. The current Rent due on July 1, 2019 shall be included in the calculation, but the prior year's Rent due on 7/1/2018 shall not be included.

If the Debt Coverage Ratio so determined is less than 1.0, the current Rent due and payable will be reduced by an amount necessary to increase the Debt Coverage Ratio to 1.0. The Rent amount (whether due in full or partially abated as necessary to maintain the OCR at 1.0) shall be due and payable in full on the due date.

In any year where the rent payment is either pro-rated or not payable under the OCR calculation, Tenant must fully disclose all payments made to related parties, affiliates, or subsidiaries. All payments made to related parties, affiliates, or subsidiaries shall not exceed fair and reasonable market rates as by determined by Landlord. If Landlord determines that a payment made by Tenant to a related party is unreasonable or otherwise not consistent with market rates for the same services offered by an unrelated party, Tenant shall provide supporting documentation affirming the reasonableness of such payment and consistency with market rates for the same services provided by unrelated third parties. Landlord may demand such payment be reduced to a competitive market rate for purposes the OCR calculation if it does not meet the reasonable and market rate test after reviewing supporting documentation.

In any year where the Tenant pays or requests to pay less than the full Rent, Landlord may require Tenant to submit independently reviewed annual income & operating expense reports for the previous 12-month period in order to validate that the OCR threshold for the rent abatement has been met.

The amount of any Rent reduction resulting from the above-described abatement of annual Rent shall be permanently abated and not carried forward to future lease years.

3.2 **Rent for Extension Term.** Rent for each year of the First and Second Extension Terms will continue to increase or decrease by an annual CPI adjustment in the manner described above.

3.3 **Payment of Rent.** Rent is payable in advance, commencing on the Rent Commencement Date and thereafter on the anniversary of the Rent Commencement Date throughout the Term, without notice or demand and without abatement, deduction or setoff except as otherwise provided in this Lease. Rent and all other amounts payable to Landlord under the terms of this Lease must be delivered to Landlord at its office, located at 1333 NW Eastman Parkway, Gresham, Oregon 97030, or at another place that Landlord may designate by notice to Tenant, in lawful money of the United States.

3.4 **Late Charge and Interest.** If Rent or any other amount payable by Tenant to Landlord is not paid within 10 days after written notice that it is past due, Landlord may charge Tenant a late charge of five percent (5%) of the amount due. The parties agree that the late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of the late payment. Collection of the late charge will not be considered a waiver of default nor of any other right or remedy. In addition, all delinquent amounts must bear interest at the rate of eight percent (8%) per annum or the highest rate permitted by law, whichever is lower (the "Default Rate"), from the date first due until the date paid in full.

3.5 **Net Lease.** This Lease is an absolute net lease, and it is intended that the rent provided for in this Lease will be an absolute net return to Landlord throughout the Term. Tenant will be responsible for paying all costs and expenses relating to the Premises and the Improvements, including real and personal property taxes, utilities, maintenance, repairs, interior and exterior structural repairs, interior and exterior nonstructural repairs, insurance, and all other costs and expenses relating to the Premises and the

Improvements. Without notice or demand and without abatement, deduction, or setoff except as may be otherwise provided in this Lease, Tenant is required to pay, as additional rent, all sums, impositions, costs, and other payments that Tenant assumes or agrees to pay in any provision of this Lease. If Tenant fails to make a payment, Landlord will have (in addition to all other rights and remedies) all the rights and remedies provided for in this Lease or by law for nonpayment of the Rent.

Article 4
RESERVED

Article 5
USE AND COMPLIANCE WITH LEGAL REQUIREMENTS

5.1 **Permitted Use.** Tenant will use and occupy the Premises during the Term for the marketing, development, construction, and operation of the Project in compliance with the Lease covenants and with all applicable Legal Requirements (as defined in Section 5.2 below).

5.2 **Compliance with Legal Requirements.** Tenant will observe and comply with all Legal Requirements that may apply to the Premises, or to the use or manner of uses of the Premises, or the Improvements or the owners or users of the Improvements, whether or not the Legal Requirements affect the interior or exterior of the Improvements, necessitate structural changes or improvements, or interfere with the use and enjoyment of the Premises or the Improvements, and whether or not compliance with the Legal Requirements is required by reason of any condition, event, or circumstance existing before or after the Term commences. Tenant will pay all costs of compliance with Legal Requirements.

"Legal Requirements" means all applicable present and future laws, ordinances, orders, rules, regulations, codes, and requirements of all federal, state, and municipal governments, departments, commissions, boards, and officers, that now or hereafter apply to the Premises, the Improvements, or any component hereof or any activity conducted thereon, including but not limited to those pertaining to Environmental Laws and the use and storage of Hazardous Substances (as these terms are defined below) and, if applicable Treasury Regulations § l.45D- l (d)(5)(iii)(B). With respect to the City of Gresham and any agency, department, commission, board, or officer thereof including GRDC, "Legal Requirements" shall mean only those requirements imposed in its governmental capacity and not in its capacity as landlord under this Lease, including, but not limited to, any recorded Landscape Maintenance Agreement and/or storm water management agreement required by the City as a condition of approval of the Project.

"Environmental Laws" means all present or future federal, state, and local laws or regulations related to the protection of health or the environment, including the Resource Conservation and Recovery Act of 1976 (RCRA) (42 USC § 6901 *et seq.),* the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 USC§ 9601 *et seq.),* the Toxic Substances Control Act (15 USC§ 2601 *et seq.),* the Federal Water Pollution Control Act (the Clean Water Act) (33 USC§ 1251 *et seq.),* the Clean Air Act (42 USC§ 7401 *et seq.),* amendments to the foregoing, and any rules and regulations promulgated thereunder.

"Hazardous Substances" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any local, state, or federal governmental authority, including without limitation, any hazardous material, hazardous substance, ultra-hazardous material, toxic waste, toxic substance, pollutant, radioactive material, petroleum product, and PCB, as those and similar terms are commonly used or defined by Environmental Laws.

5.3 **Right to Contest.** Tenant will have the right, with prior written notice to Landlord, to contest by appropriate legal proceedings, diligently conducted in good faith, in the name of Tenant, without cost or expense to Landlord, the validity or application of any Legal Requirement subject to the following: (a) if, by the terms of any Legal Requirement, compliance may legally be delayed pending the prosecution of any such proceeding without the incurrence of any lien, charge, or liability of any kind against all or any part of the Premises or the Improvements and without subjecting Tenant or Landlord to any liability, civil or criminal, for failure to comply, Tenant may delay compliance until the final determination of the proceeding; or (b) if any lien, charge, or civil liability would be incurred by reason of any such delay, Tenant nevertheless may contest the matter and delay compliance as long as the delay would not subject Landlord to criminal liability or fine, and Tenant furnishes to Landlord security, reasonably satisfactory to Landlord, against any loss or injury by reason of the contest or delay, and prosecutes the contest with due diligence. Landlord will execute and deliver any appropriate papers that may be necessary or proper to permit Tenant to contest the validity or application of any Legal Requirement as long as Tenant has satisfied all the requirements of this Section and Landlord will incur no cost or material risk of penalty or enforcement action.

5.4 **Prohibited Uses.** Tenant will not use or occupy the Premises or the Improvements, or permit or suffer all or any part of the Premises or the Improvements to be used or occupied: (a) for any unlawful or illegal business, use, or purpose, including any illegal gambling; (b) in any manner so as to constitute a public nuisance of any kind; (c) for any purpose or in any way in violation of the certificate of occupancy, or of any Legal Requirements, including Legal Requirements respecting Hazardous Substances; or (d) for any business, use, or purpose generally deemed disreputable, including, but not limited to, adult businesses.

Additionally, Tenant shall not permit all or any part of the Project or the Improvements to be used or occupied for any of the following uses without Landlord's prior written consent: (a) businesses involving the production, processing, handling, sale, or use of marijuana or marijuana-based products; (b) nail or tanning salons, (c) massage parlors, (d) stores the principal business of which is the sale of alcoholic beverages for off-premises consumption (which restriction does not prohibit grocery, convenience store, or similar retailers that may sell alcohol), (e) casinos or other facilities used for gambling; (f) motor vehicle sales, servicing, or repair; (g) self-serve storage, other than for businesses leasing retail or restaurant space in the Project or nearby properties; (h) heavy industrial uses; (i) drive-through businesses; and (j) businesses that exclude minors from the entire premises at all hours of the day. Upon request, Landlord will consider in good faith any changes to the foregoing restrictions proposed by Tenant to reflect changes in Landlord or City policy or prevailing community standards. Landlord may institute legal action to void any lease entered into contrary to these provisions. In the event New Markets Tax Credits (NMTC) are used to finance any portion of the Project, any uses prohibited by Treasury Regulations§ l.45D-l(d)(5)(iii)(B), as amended, shall also be excluded uses during the tax credit compliance period.

5.5 **Changes to Type of Use.** During the first twenty (20) years of the Lease Term, any change in the type of use of any material part of Premises shall require the prior written approval of Landlord. For purposes of this provision, "change in the type of use" shall mean (a) a change from retail use to office use or residential use, (b) a change from office or medical use to retail use or residential use, or (c) a change from parking use to another type of use.

5.6 **No Waste.** Tenant will not cause or permit any waste of the Premises or the Improvements and, except as otherwise permitted under this Lease, will promptly repair any damage, disfigurement, or injury to the Premises or the Improvements. Additionally, Tenant will have the right to demolish and

remove any and all the Improvements on the Premises pursuant to and in accordance with the terms of Article 6 below.

5.7 **Annual Meeting Between Landlord and Tenant.** After issuance of the Certificate of Completion, Landlord and Tenant shall cause their representatives to meet annually during the first week of October, or as soon thereafter as reasonably practicable to discuss the Project and their respective thoughts and non-binding input regarding current and potential future leasing of space in the Project and potential alterations or improvements to the Project, the Improvements or the Premises, if any.

Article 6
PROJECT AND IMPROVEMENTS

6.1 **Construction, Modification, and Demolition of the Project and Improvements.** After Tenant's completion of the initial Improvements pursuant to the LDA, Tenant may, at any time and from time to time during the Term, at its cost and expense, construct, modify, demolish and rebuild the Project or Improvements on the Premises, except as follows.

(a) Tenant may not construct or demolish, or make material modifications to the exterior or structural components of the Project or Improvements on the Premises without the prior written consent of Landlord (excluding signage, exterior fixtures and street furniture, commercial storefronts, and landscaping, none of which shall require Landlord approval);

(b) Notwithstanding subsection (a), which provides that modifications to the commercial storefronts do not require Landlord approval, if Tenant desires to make material modifications to any commercial storefront, Tenant will furnish Landlord with proposed plans for such work and Landlord will have thirty (30) days after receipt of such plans and specifications in which to solicit from stakeholders and provide non-binding input regarding the proposed changes. Subtenant signage, relocation of doors, or substitution of a different type of door shall not be considered a material modification.

(c) If Tenant desires to construct, demolish, or modify the exterior or structural components of the Project or any Improvement and Landlord's approval is required pursuant to the foregoing subsection (a), Tenant will furnish Landlord with proposed plans and specifications for such work and Landlord will have sixty (60) days after receipt of such plans and specifications to either approve the plans and specifications or provide Tenant with reasonable comments on the plans and specifications; provided, however, Landlord's approval will be deemed given if Landlord fails to respond to Tenant's submittal or resubmittal within sixty (60) days. Tenant will address any reasonable comments so received from Landlord and submit revised plans and specifications to Landlord for approval. For any submission of revised plans and specifications, Landlord will have fifteen (15) days after receipt of such plans and specifications to either approve the revised plans and specifications or provide Tenant with any further reasonable comments Landlord may have on the revised plans and specifications; provided, however, Landlord's approval will be deemed given if Landlord fails to respond to Tenant's submittal or resubmittal within fifteen (15) days. The parties shall continue in such fashion until they have reached agreement on the proposed construction, demolition or modification;

(d) Upon completion of or modification to the Building, any portion of the Project or any Improvement, Tenant will provide Landlord with as-built plans for the completed work within thirty (30) days of receipt of Certificate of Occupancy of the completed Improvements or modifications.

6.2 **Title to the Project and Improvements.** Title to the Project and all Improvements constructed by Tenant will be and will remain in Tenant during the Term of the Lease subject to the restrictive covenant and equitable servitude for Affordable Commercial/Retail Spaces provided for in Section 16.8. During the Term, Tenant is entitled, for all taxation purposes, to claim cost-recovery deductions and the like on the Project and all Improvements constructed by Tenant. At the expiration or earlier termination of the Lease, title to the Project and any Improvements remaining on the Premises that are not already owned by Landlord will automatically pass to, vest in, and belong to Landlord without further action on the part of either party and without cost or charge to Landlord.

6.3 **Notice of Construction.** After completion of the initial Improvements constructed pursuant to the LDA, Tenant agrees to notify Landlord in writing of Tenant's intention to commence construction of any other Improvements or modifications expected to cost more than $50,000 at least fifteen (15) days before commencement of any such work or delivery of any materials. The notice must specify the approximate location and nature of the intended Improvements, and the anticipated date that work will be commenced. Landlord will have the right at any time and from time to time to post and maintain on the Premises notices of non-responsibility and such other notices as Landlord deems necessary to protect Landlord's interest in the Premises and the Improvements from the liens of mechanics, laborers, materialmen, suppliers, or vendors; and Landlord will have the right to inspect the Premises and the Improvements in relation to the construction at all reasonable times.

6.4 **Landlord Cooperation.** Landlord agrees to cooperate with Tenant in all respects in connection with Tenant's construction of the approved Project and any Improvements constructed in accordance with this Lease, including but not limited to, executing the applications and other instruments reasonably necessary for construction of the Project and/or Improvements. Except as provided in the LDA in connection with construction of the initial Improvements, Landlord will not be required to pay any application fees or incur any other costs or liabilities in connection with the Project or Improvements beyond Landlord's fees for any professional advice Landlord desires. Landlord will appear as a witness in any legal or administrative proceedings to the extent reasonably necessary to construct the Project or Improvements.

6.5 **Easements and Dedications.** Tenant and Landlord each recognize that in order to provide for the development of the Premises, it may be necessary, desirable, or required that street, water, sewer, drainage, gas, power line, and other easements and dedications and similar rights be granted or dedicated over or within portions of the Premises. Landlord agrees that it will, upon request of Tenant, join with Tenant in executing and delivering such documents, from time to time, and throughout the Term of this Lease as may be appropriate, necessary, or required by any governmental agency or public utility company for the purpose of granting such easements and dedications.

Article 7
TAXES AND UTILITIES

7.I **Taxes Defined.** As used in this Lease, the terms "Tax" and "Taxes" mean any and all taxes, service payments in lieu of taxes, general or special assessments, excise taxes, transit charges, utility assessments, and any and all charges, levies, fees, or costs, general or special, ordinary or extraordinary,

of any kind that are levied or at the direction of laws, rules, or regulations of any federal, state, or local authority on the Premises, the Project or the Improvements, or based on or otherwise in connection with the use, occupancy, or operations of the Premises, the Project or the Improvements, or with respect to services or utilities in connection with the use, occupancy, or operations of the Premises, the Project or the Improvements, or on Tenant with respect to its subleasing of the Premises, the Project or the Improvements, or on any act of subleasing space in the Project or Improvements, or in connection with the business of subleasing space in the Project or Improvements, including any tax on sublease rents, whether direct or as part of any "gross receipts" tax, and whether or not in lieu of, in whole or in part, ad valorem property taxes. Taxes will include, but not be limited to, state and local real property taxes, levies, and assessments, and except as set forth below, any other governmental impositions and governmental charges relating to the Premises, the Project, or the Improvements, including, but not limited to, any road-user or transportation-system- maintenance fee and any charges or fees measured by trip generation or length, parking spaces, impervious surfaces, buildings, vehicle usage, or similar bases for measurement.

Notwithstanding the foregoing, nothing in this Section or this Lease requires Tenant to pay any franchise, estate, inheritance, succession, capital levy, or transfer tax assessed to Landlord, or any income, excess profits, or revenue tax, or any other tax, assessment, charge, or levy on the Rent payable by Tenant under this Lease, all of which shall be the sole responsibility of Landlord and all of which Landlord shall pay before delinquency; provided, however, that if at any time during the Term the methods of taxation prevailing at the commencement of the Term are altered so that in lieu of any Tax under this Section there is levied, assessed, or imposed a tax, assessment, levy, imposition, or charge, wholly or partially as a capital license fee measured by the Rent payable by Tenant under this Lease, then all such taxes, assessments, levies, impositions, or charges or the part so measured or based, shall be deemed to be included within the term "Tax" for the purposes of this Lease, to the extent that such Tax would be payable if the Premises were the only property of Landlord subject to such Tax, and Tenant shall pay and discharge the same as provided in respect to the payment of Taxes.

7.2 **Payment of Taxes.** Throughout the Term, Tenant will pay all Taxes as they become due. If by law any Tax is payable, or may at the option of the taxpayer be paid, in installments, Tenant may pay the same in installments as each installment becomes due and payable, but in any event must do so before any fine, penalty, interest, or cost may be added for nonpayment of any installment or interest.

7.3 **Contesting Taxes.** If Tenant in good faith desires to contest the validity or the amount of any Tax, Tenant will be permitted to do so by giving to Landlord written notice thereof before commencement of such contest. Landlord will, at Tenant's expense (including reimbursement of attorney fees reasonably incurred by Landlord), cooperate with Tenant in any such contest to the extent that Tenant may reasonably request, but Landlord will not be subject to any liability for the payment of any costs or expenses in connection with any proceeding brought by Tenant, and Tenant will indemnify and save Landlord harmless from any such costs or expenses. Any rebates on account of the Taxes required to be paid and paid by Tenant under the provisions of this Lease will belong to Tenant, except that to the extent any rebates or refunds are related to a period of time in which this Lease is not in effect (either before commencement or after expiration or termination), the portion of the rebate attributable to such time will be returned to Landlord to the extent previously paid by Landlord. Any contest as to the validity or amount of any Tax, or assessed valuation on which the Tax was computed or based, whether before or after payment, may be made by Tenant in the name of Landlord or of Tenant, or both, as Tenant will determine.

7.4 **Evidence of Payment.** Promptly after payment, Tenant will provide Landlord with evidence reasonably satisfactory to Landlord that all Taxes required to be paid by Tenant have been paid.

7.5 **Personal-Property Taxes.** Tenant must pay before delinquency all taxes assessed against and levied on improvements, fixtures, furnishings, equipment, and all other personal property of Tenant contained in the Premises or the Project, and when possible Tenant must cause said improvements, fixtures, furnishings, equipment, and other personal property to be assessed and billed separately from the real property of Landlord.

7.6 **Utilities and Services.** Tenant will pay, directly to the appropriate supplier, for all water, sanitary sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, and all other utilities and services used by Tenant on the Premises or at the Project as they become due, together with any taxes thereon, from and after the Commencement Date. Landlord will not be in default hereunder nor be liable in damages or otherwise for any failure or interruption of any utility or other service being furnished to the Premises or the Project, and no such failure or interruption will entitle Tenant to terminate this Lease or to abate payment of any portion of Rent due hereunder.

Article 8
INSURANCE

8.1 **Property Insurance.** Tenant, at its cost and expense, will keep all Improvements insured against loss or damage by property insurance written on the standard Insurance Services Office (ISO) "special-form" policy, or its nearest equivalent in use at the time. Tenant will obtain endorsements to its special-form policy to maintain the following types of coverage to the extent required by Landlord and available at commercially reasonable rates: (a) flood, (b) earthquake, (c) business interruption, (d) indirect loss, (e) boiler and machinery perils, and (f) ordinance and law. The property insurance must cover the full replacement value of the Project and Improvements (excluding foundation and excavation cost), less a deductible not to exceed $25,000. The property insurance shall provide that all losses are payable to Landlord and Tenant as their interests may appear; provided, however, if the Innovation Center or any portion thereof is destroyed and if either Tenant or Landlord does not provide written notice to DAS that the insurance proceeds payable to Tenant of Landlord, as the case may be, will be used to rebuild the Innovation Center, then, if required under the Lottery Agreement, such party's insurance proceeds shall be paid to the State to the extent necessary to call or defease the portion of the then outstanding Bonds relating to the Project described in the Lottery Agreement (including all undefeased allocable costs of issuance). Any loss adjustment must require written consent of both parties, which will not be unreasonably withheld, conditioned, or delayed. The amount of the insurance policy will be increased from time to time as the full replacement value of the Improvements increases.

8.2 **Liability Insurance.** Tenant, at its cost and expense, will maintain commercial general liability insurance covering the Premises, the Improvements, and the conduct or operation of its business with limits of loss of at least $2 million combined single-limit coverage for personal injury and property damage. The insurance policy must be primary to any insurance available to Landlord, contain a severability-of-interest or cross-liability clause, include contractual-liability coverage for Tenant's indemnification obligations contained in this Lease, and name Landlord as an additional insured. Landlord has the right from time to time to increase the amount of liability insurance required under this Lease based on then-current market conditions for properties comparable to the Premises.

8.3 **Additional Requirements.** Tenant's insurance carriers must be reputable insurance companies reasonably acceptable to Landlord, licensed to do business in the State of Oregon, and have a minimum A-VIII rating as determined by the then-current edition of *Best's Insurance Reports* published by A.M. Best Co. Tenant will provide Landlord with certificates of insurance concurrently with the execution of this Lease and upon each renewal thereafter to establish that Tenant's insurance obligations have been met and that the policies are not subject to cancellation or material change without at least thirty (30) days advance written notice to Landlord; provided, however, that Landlord reserves the right to inspect and require full copies of all insurance policies to be provided to Landlord.

Article 9
RELEASE AND INDEMNIFICATION

9.1 **Release.** Tenant is and will be in exclusive control of the Premises, the Project and the Improvements, and Landlord will not in any event whatsoever be liable for any injury or damage to any property or to any person happening on, in, or about the Premises, the Project or the Improvements, or any injury or damage to the Premises, the Project or the Improvements or to any property, whether belonging to Tenant or to any other person, caused by any fire, breakage, leakage, defect, or bad condition on any part of the Premises, the Project or the Improvements, or from steam, gas, electricity, water, rain, or snow that may leak into, issue, or flow from any part of the Premises, the Project or the Improvements from the drains, pipes, or plumbing work of the same, or from the street, subsurface, or any place or quarter, or because of the use, misuse, or abuse of all or any of the Improvements, or from any kind of injury that may arise from any other cause whatsoever on the Premises, the Project or in or on the Improvements, including defects in construction of the Project or the Improvements, latent or otherwise; and Tenant hereby releases Landlord from and against any and all liabilities resulting from any such injuries and damages. Notwithstanding anything in this Section to the contrary, Landlord acknowledges that it remains responsible for liability to any third party to the extent that the liability arises from Landlord's negligence or willful misconduct.

9.2 **Indemnification.** Except to the extent caused by the gross negligence or willful misconduct of Landlord and except with respect to any obligations of Landlord under the LDA or breach by Landlord of its obligations under the LDA, Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all liabilities, obligations, damages, fines, penalties, claims, costs, charges, and expenses (including, without limitation, reasonable attorney fees, expert witness fees, and costs at trial and on appeal; environmental response and remedial costs; environmental consultant and laboratory fees; and natural resource damages) that may be imposed on or incurred by or asserted against Landlord by reason of any of the following occurrences during the Term.

(a) Any work or thing done in or on any part of the Premises, the Project or the Improvements by Tenant, its agents, contractors, servants, employees, subtenants, licensees or invitees;

(b) Any use, nonuse, possession, occupation, condition, operation, maintenance, or management of all or any part of the Premises, the Project or the Improvements by Tenant, its agents, contractors, servants, employees, subtenants, licensees or invitees;

(c) Any negligence in or on or with respect to the Premises, the Project or the Improvements on the part of Tenant or any of its agents, contractors, servants, employees, subtenants, licensees, or invitees;

(d) Any accident, injury, or damage to any person or property occurring in or on the Premises, the Project or the Improvements, even if caused in part by the negligence of Landlord, but only up to the limits of Tenant's liability insurance coverage with respect to any such negligence of Landlord; and

(e) Any failure of Tenant to comply with or to perform any covenant, agreement, term, provision, condition, or limitation that this Lease requires Tenant to comply with or to perform, including without limitation Tenant's compliance with the Legal Requirements, Liens, and the release of Hazardous Substances in violation of Environmental Laws.

Article 10
LIENS

10.1 **No Liens.** Tenant will not suffer or permit any construction liens to attach to or be filed against any part the Premises, the Project or the Improvements by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Tenant or any person occupying or holding an interest in any part of the Premises, the Project or the Improvements. If any such lien is filed against any portion of the Premises, the Project or the Improvements, Tenant will cause the same to be discharged of record within fifteen (15) days after the date of its filing by payment, deposit, or bond.

10.2 **Landlord Right to Post Notices.** Landlord will have the right to post and keep posted at all reasonable times on the Premises, the Project and the Improvements notices of non-responsibility and any other notices that Landlord desires or is required to post for the protection of Landlord's interest in the Premises, the Project and the Improvements from any such lien.

10.3 **No Right to Lien Landlord's Interest.** Nothing in this Lease may be deemed to be, or be construed in any way as constituting, the consent or request of Landlord, express or implied, by inference or otherwise, to any person, firm, or corporation for the performance of any labor or the furnishing of any materials for any construction, rebuilding, alteration, or repair of or to the Premises, the Project or to the Improvements, or as giving Tenant any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that might in any way give rise to the right to file any lien against Landlord's interest in the Premises, the Project or against Landlord's interest, if any, in the Project or the Improvements. Tenant is not an agent for Landlord.

Article 11
REPAIRS AND MAINTENANCE

11.1 **Tenant Obligation.** Except as otherwise provided in this Lease, Tenant must maintain, repair and replace the Premises, the Project and the Improvements as and when needed so as to keep them in a clean and attractive condition, and in good condition and repair, throughout the entire Term. Tenant's obligations extend to both structural and nonstructural items and to all maintenance, repair, and replacement work.

11.2 **Landlord Obligation.** Landlord is not required to furnish to Tenant, the Premises, the Project or the Improvements any facilities, utilities, or services of any kind whatsoever during the Term, such as, but not limited to, water, sanitary sewer, storm sewer, gas, electric, telephone, cable, garbage pickup, or any other utilities or services used by Tenant, except to the extent, if at all, that Landlord would be required to provide such utilities or services to the Premises other than in its capacity as Landlord.

Landlord is not required to make any alterations, rebuildings, replacements, changes, additions, improvements, or repairs to any portion of the Premises, the Project or the Improvements during the Term.

11.3 **Limited Assignment of Rights.** Landlord assigns to Tenant, without recourse, any rights that Landlord may have against any parties causing damage to the Project or the Improvements on the Premises to sue for and recover amounts expended by Tenant as a result of the damage.

Article 12
SIGNAGE

Tenant is permitted to install signage on the Premises, the Project and the Improvements as long as Tenant complies with all applicable Legal Requirements.

Article 13
INSPECTION AND ACCESS

Tenant will permit Landlord or its authorized representative to enter the Premises, the Project and the Improvements at all reasonable times during normal business hours, accompanied by a representative of Tenant and subject to any reasonable restrictions in applicable subleases, for purposes of inspecting them for compliance with the terms of this Lease and making any repairs or performing any work that Tenant has neglected or refused to make in accordance with the terms of this Lease. Nothing in this Lease implies any duty or obligation, however, on Landlord's part to make such inspections or perform such work (including, but not limited to, repairs and other restoration work made necessary because of any fire or other casualty or partial condemnation, irrespective of the sufficiency or availability of any property or other insurance proceeds, or any award in condemnation, that may be payable). Landlord's performance of any work will not constitute a waiver of Tenant's default in failing to perform the same. Except for emergency repairs, all entry into the Premises, the Project, or the Improvements shall require at least 24 hours' advance written notice to Tenant. In the event of any emergency repairs, Landlord shall use reasonable efforts to give Tenant the earliest possible notice of the same.

Article 14
DAMAGE AND DESTRUCTION

If any portion of the Project or Improvements on the Premises are damaged or destroyed by fire or other casualty, Rent will not abate, and Tenant must promptly restore the damaged portion of the Project or Improvements to substantially the same condition existing before the casualty. Except as otherwise required by any Permitted Leasehold Mortgagee, the proceeds available from Tenant's property insurance policy (the "Proceeds") must be used for such restoration. If the Proceeds are not sufficient for Tenant to restore the damaged portion of the Project or Improvements, Tenant must pay the difference.

Unless the Proceeds will be held by any Permitted Leasehold Mortgagee, should the Proceeds equal more than ten percent (10%) of the replacement cost of the damaged portion of the Project or Improvements or $250,000, whichever is greater, then all Proceeds will be paid to an escrow agent (the "Trustee") selected by Tenant (subject to the reasonable approval of Landlord) as trustee for the parties and disbursed as provided below. If the Proceeds are less than such amount, then the Proceeds will be delivered to Tenant. The Trustee will pay or reimburse Tenant from the Proceeds for the cost of restoring

the damaged portion of the Project or Improvements on satisfactory proof of expenditure by Tenant, satisfactory evidence of sufficient progress on the work, and satisfactory evidence of sufficient funds available to complete restoration. The Trustee will not be liable to the parties except in the event of negligence or fraud. The Trustee will be entitled to deduct a customary and reasonable charge for its services.

If Tenant fails to file a claim or proof of loss with its property insurance carrier within fifteen (15) days after the casualty, Landlord may file such claim or proof of loss on behalf of Tenant after providing Tenant with written notice of its intention to do so. Any dispute regarding the distribution or use of the Proceeds will be resolved pursuant to Section 15.5.

Notwithstanding the foregoing to the contrary, if the casualty occurs during the last three years of the Term and the Project or the Improvements are damaged to the extent of thirty-five percent (35%) or more of the total replacement cost of the Project and all Improvements on the Premises (exclusive of foundations), then either Landlord or Tenant may terminate this Lease by providing written notice thereof to the other party within ninety (90) days after the date of the casualty; provided, however, that if Landlord elects to terminate the Lease under this Section but Tenant has the right to extend the Term of this Lease under Section 2.2, then Tenant may elect to exercise its extension right within thirty (30) days after receiving notice of Landlord's election to terminate the Lease, in which case Landlord's notice of termination is void, the Term is extended as provided in Section 2.2 and Tenant must perform its restoration obligation as provided above. Upon the exercise of the option to terminate this Lease by either party hereto (unless Tenant vitiates Landlord's termination of the Lease by extending the Term as provided above), this Lease will terminate upon Tenant (a) removing all damaged portion of the Premises or Improvements (including foundations) and leaving the Premises in a clean, attractive, and safe condition, and (b) delivering the balance of the Proceeds to Landlord.

Article 15
CONDEMNATION

15.1 **Total Taking.** If all the Premises and the Improvements are taken or condemned by right of eminent domain or by purchase in lieu of condemnation (a "Taking"), or if in Tenant's reasonable judgment the Taking of any portion of the Premises or the Improvements renders the portion remaining insufficient and unsuitable to permit the restoration of the Improvements following the Taking, then Tenant may terminate this Lease by providing written notice thereof to Landlord within ninety (90) days after Tenant is notified of the Taking, in which case the Lease will cease and terminate (except those provisions intended to survive the expiration or termination of the Lease) as of the date on which the condemning authority takes possession (any Taking in this Section being called a "Total Taking") and the Rent will be apportioned and paid to the date of the Total Taking.

15.2 **Award for Total Taking.** If this Lease terminates as a result of a Total Taking, the rights and interests of the parties will be determined as follows:

(a) The total award or awards for the Total Taking will be apportioned as follows:

(b) Landlord will have the right to receive directly from the condemning authority, in its entirety and not subject to any trust, a portion of the award that is defined and referred to as the Land Award (as defined below), and neither Tenant nor any Permitted Leasehold Mortgagee will be entitled to receive any part of the Land Award. The term "Land Award" means that portion of the award in the condemnation proceeding that represents the fair market value of the Premises,

which should be considered as vacant, unimproved but encumbered by this Lease; the consequential damage to any part of the Premises that may not be taken; the diminution of the assemblage or plottage value of the Premises not so taken; and all other elements and factors of damage to the Premises; but in all events the damage or valuation will take into consideration that the Premises are encumbered by this Lease.

(c) Tenant will have the right to receive directly from the condemning authority that portion of the award referred to as the Leasehold Award (as defined below), subject, however, to the rights of any Permitted Leasehold Mortgagee. The term "Leasehold Award" means that portion of the award in the condemnation proceeding that represents the fair market value of Tenant's interest in the Improvements and the fair market value of Tenant's leasehold estate as so taken and, if this Lease is not terminated as a result of the Taking, the consequential damages to any part of the Improvements.

(d) It is the intent of the parties that the Land Award and the Leasehold Award will equal the total amount of the awards respecting the Total Taking.

(e) If a court or another lawful authority that is authorized to fix and determine the awards fails to fix and determine, separately and apart, the Land Award and the Leasehold Award, the awards will be determined and fixed by written agreement mutually entered into by and among Landlord, Tenant, and First Leasehold Mortgagee, if any, and if an agreement is not reached within thirty (30) days after the judgment is entered in the proceeding, the controversy will be resolved in the same court in which the condemnation action is brought, in any proceedings that are appropriate for adjudicating the controversy. If the total amount awarded is less than the combined amount of the Land Award and the Leasehold Award as determined in such proceedings, the Land Award and Leasehold Award shall each be reduced pro rata so that combined they equal the total award.

(f) Notwithstanding the foregoing, if the Innovation Center or any portion is condemned, then, if and to the extent required under the Lottery Agreement, the Landlord Award and the Tenant Award shall be paid in equal amounts to the State to the extent of the amount necessary to call or defease the portion of the then outstanding Bonds relating to the Project described in the Lottery Agreement (including all undefeased allocable costs of issuance.

15.3 **Partial Taking and Award for Partial Taking.** If, during the Term, there is a Taking of the Premises or the Improvements, but the Taking is not a Total Taking and not a temporary taking of the kind described in Section 15.4, or if a change occurs in the grade of the streets or avenues on which the Premises abuts, this Lease will not terminate but will remain in full force and effect with respect to the portion of the Premises and the Improvements not taken (any Taking or change of grade of the kind described in this Section being referred to as a "Partial Taking"), and in that event the total award or awards for the taking will be apportioned and paid in the same manner provided above for a Total Taking.

15.4 **Temporary Taking.** If there is a Taking of all or a part of the Premises or the Improvements for temporary use, this Lease will continue without change, as between Landlord and Tenant, and Tenant will be entitled to the entire award made for that use. Tenant will also have the right to file and prosecute any claim against the condemnor for damages, and to recover the same, for any negligent use, waste, or injury to the Premises or the Improvements throughout the balance of the then-current Term. The amount of damages so recovered will belong to Tenant.

15.5 **Dispute Resolution.** In the event of any dispute between Tenant and Landlord regarding any issue of fact arising out of a Taking mentioned in this Article, the dispute will be resolved by the same court in which the condemnation action is brought, in any proceedings that are appropriate for adjudicating the dispute.

Article 16
ASSIGNMENT AND SUBLETTING

16.1 **Restrictions on Transfer Generally.** Tenant's sale, assignment, or transfer of this Lease or any interest therein (voluntarily or by operation of law), Tenant's sublease of the Premises or any part thereof, or Tenant's grant of any right to use the Premises, the Improvements, or any respective part thereof are each referred to in this Lease as a "Transfer." To the extent Landlord's consent is required under this Lease, Landlord must not unreasonably withhold, condition or delay consent to any Transfer except as otherwise expressly provided in this Article. Any attempted Transfer requiring Landlord's prior written consent made without such prior written consent will be void. Upon any Transfer of all of Tenant's interest in the Lease and the Improvements (and provided Landlord's written consent has been obtained, if required under this Lease), Tenant and any guarantor shall be automatically released from their respective liabilities or obligations under this Lease or any guaranty of this Lease to the extent such obligations accrue on or after the effective date of the Transfer. No Transfer shall relieve Tenant from the requirement of obtaining Landlord's prior written consent to any further Transfers to the extent Landlord consent to the extent such further Transfers is required under this Lease. Landlord's acceptance of Rent from any other person will not be deemed to be a waiver by Landlord of any provision of this Lease or consent to any Transfer. If Tenant is a corporation, partnership, limited liability company, or other entity or unincorporated association, then any Transfer of this Lease by merger, consolidation, or liquidation will constitute a Transfer for the purposes of this Article.

16.2 **Restrictions on Transfer Prior to Issuance of Certificate of Completion.** Because Landlord is a municipal entity, Landlord is uniquely benefited by completion of the Project. Tenant as a developer is uniquely qualified to construct and manage the Project. The anti-assignment provisions of this Article 16 are reasonable and necessary to provide to each Party the benefit of the transaction implemented through this Lease.

(a) Except as provided in Section 16.3, prior to issuance of a Certificate of Completion under the LDA, Tenant shall not partially or wholly transfer or dispose of the Tenant's interest in the Lease, the Project, the Improvements or Tenant's interest in this Lease without the prior written approval of the Landlord, which may be withheld in Landlord's sole discretion. Without limiting Landlord's discretion to withhold its approval in any event, Landlord is unlikely to approve a transfer or disposition if (a) the transfer or disposition violates another provision of this Lease, (b) the proposed transferee does not possess qualifications and financial capacity equal to or superior to that of Tenant, or (c) the transfer or disposition will cause a material delay in completion of the Project or Improvements.

16.3 **Approved Transfers Prior to Issuance of Certificate of Completion.** Notwithstanding Section 16.2 above, the following transfers are allowed prior to issuance of Certificate of Completion pursuant to the LDA:

(a) A master sublease of Tenant's rights under this Lease and interest in the second and third floors of Building C (which interest will remain subject to the terms and conditions of

this Lease) to a partnership, limited liability company or limited partnership provided that (i) Roy Kim directly or indirectly holds a controlling management interest in the sublessee and (except in the event of death or incapacity that renders him unable to manage the operations of the assignee sublessee) retains control of the operations of the assignee or sublessee, and (ii) provided that Tenant furnishes Landlord with copies of the sublease instrument prior to the effective date of the proposed transfer, and any other information reasonably necessary for Landlord to determine whether such transfer complies with the requirements of this Lease. Notwithstanding an assignment or sublease under this Section 16.3(a), Tenant shall remain fully responsible to Landlord for performance of this Lease.

(b) Any Permitted Leasehold Mortgage, as defined in Section 18.2 or, subject to the provisions of any written agreement between Landlord and such Leasehold Mortgagee, any Transfer directly resulting from the foreclosure of a security interest by a Permitted Leasehold Mortgagee or the granting of a deed in lieu of foreclosure of such a security interest.

(c) Any subleases provided such subleases comply with Section 16.11 below. With respect to any sublease for commercial space, Tenant shall request Landlord's approval of the subtenant and the permitted uses under the sublease, which approval shall not be unreasonably withheld, conditioned or delayed, but the ultimate decision on subleasing shall be Tenant's.

16.4 **Transfers after Issuance of Certificate of Completion.** After issuance of the Certificate of Completion pursuant to the LDA, the following provisions shall apply.

(a) Subleases. During the first twenty (20) years of the Term, Tenant shall not sublease any commercial space in the Project without requesting Landlord's approval of the subtenant and the permitted uses under the sublease, which approval shall not be unreasonably withheld, conditioned or delayed. Failure by Landlord to approve or disapprove within fifteen (15) days after delivery of such written request shall be deemed an approval. Landlord shall specify in writing the basis for any disapproval. After the 20 year period, Tenant shall have the right to sublease portions of the Premises or the Improvements at any time and from time to time without requesting Landlord's approval of the subtenant and permitted uses under the sublease, provided the subleases comply with Sections 5.4, 16.8. and 16.11.

(b) Financing Related Transfers. Landlord's consent shall not be required for any Permitted Leasehold Mortgagee, as defined in Section 18.2, or, subject to the provisions of any written agreement between Landlord and such Leasehold Mortgagee, any Transfer directly resulting from the foreclosure of a security interest by a Permitted Leasehold Mortgagee or the granting of a deed in lieu of foreclosure of such a security interest.

(c) Other Transfers. Any Transfer not expressly permitted pursuant to Section 16.4(a) or (b) shall be subject to Landlord's prior approval, which shall not be unreasonably withheld, conditioned, or delayed and shall be subject to this Section 16.4(c). For any transfer the Landlord may withhold or condition its approval only if Landlord reasonably determines that the proposed assignee does not possesses the financial resources or successful operational experience necessary to operate the Project or portion of the Project to be transferred in accordance with this Lease. Prior to such a proposed Transfer, Tenant shall submit to Landlord information regarding such proposed Transfer, including the proposed documents to effectuate the Transfer, a description of the type of the Transfer, and such other information reasonably appropriate to assist Landlord in considering the proposed Transfer, including where applicable, the proposed transferee's financial

strength and the prosed transferee's experience, capacity and expertise with respect to the operation of and management of mixed use projects generally similar to the Project. Landlord shall approve or disapprove the proposed Transfer within forty-five (45) days of Landlord's delivery of the information specified above. If Landlord has not delivered to Tenant written notice of Landlord's approval or disapproval within such 45-day period, Tenant shall give Landlord a second written request for approval of the Transfer. Failure by Landlord to approve or disapprove within fifteen (15) days after delivery of such second written request shall be deemed an approval. Landlord shall specify in writing the basis for any disapproval. Upon any Transfer of all of Tenant's interest in the Lease and the Improvements (and provided Landlord's written consent has been obtained, or Landlord is deemed to have consented as provided above), Tenant and any guarantor shall be automatically, without need for execution of any instrument by Landlord, released from their respective liabilities or obligations under this Lease or any guaranty of this Lease to the extent such obligations accrue on or after the effective date of the Transfer. Notwithstanding the foregoing, upon written request by Tenant, Landlord shall promptly execute such documents as may be reasonably requested by Tenant or any guarantor confirming such release.

16.5 **Subleasing Procedural Requirements.** It is Landlord's intent that the commercial space on the Premises supply products and services to meet unmet demand in the Rockwood West Gresham community and serve as a catalyst to stimulate adjacent and nearby businesses. Additionally, it is Landlord's intent that the subtenant mix for such commercial space: (i) be compatible with adjacent residential uses, and (ii) create economic opportunities for people of all backgrounds in the community. With respect to the commercial space in the Project, Landlord and Tenant shall use commercially reasonable efforts to make subleasing opportunities in the Project known to members of disadvantaged groups in the community, but the ultimate decisions on subleasing shall be Tenant's. Landlord will provide technical assistance up to but not including the negotiation of such subleases. Landlord will keep Tenant apprised of any discussions it has with prospective subtenants of the Project. Promptly upon execution of a letter of intent for any commercial space in the Project, Tenant shall notify Landlord of the prospective subtenant's identity and proposed use. Landlord and Tenant recognize that subtenant negotiations can be sensitive, and each party agrees it will not make public the information it receives from the other pursuant to this paragraph until such time as the parties agree that it is appropriate to do so or as otherwise required by the Oregon Public Records Law. Landlord shall designate a representative who is authorized to respond to requests for Landlord's approval under Sections 16.3(c) and 16.4(a). Such representative shall use reasonable efforts to approve or disapprove such requests promptly, and, in any event, shall approve or disapprove such requests within fifteen (15) days. Failure by Landlord to approve or disapprove, through such representative or otherwise, within the 15-day period shall be deemed an approval. Landlord shall specify in writing the basis for any disapproval.

16.6 Tenant shall make a good faith attempt to attract locally owned commercial tenants to the Project following execution of this Lease and until all initial spaces are leased. A "good faith attempt" means that Tenant will:

(a) Hold at least two (2) informational meetings to describe the leasing opportunities for interested persons before construction is completed;

(b) Advertise the leasing opportunities and the informational meetings in The Skanner, The Gresham Observer, El Hispanic News, the Asian Reporter, and other emerging community and immigrant media publications;

(c) Send written notice of the leasing opportunities and informational meetings to BESTHq, HispanicPros, El Programa Hispana; the Immigrant & Refugee Community Organization, the Rosewood Initiative, the Rockwood Community Development Corporation, Human Solutions, Slavic Family Radio, the Oregon Association of Minority Entrepreneurs, the Urban League, the Rockwood, Wilkes-East, and Centennial Neighborhood Associations, the Rockwood Business Association, the Gresham Area Chamber of Commerce; and the East Metro Economic Alliance.

(d) Provide documentation to Landlord to verify the above attempts and any additional attempts to meet the goals.

16.7 **Tenant Types.** Tenant will make a good faith effort to attract tenants that will provide access to healthy, affordable food. Market Hall tenants will be recruited to lease and provide affordable grocery staples within the Project that could include fresh, frozen, dried, and canned fruits and vegetables, dairy products, unprocessed meat and seafood, grains, bakery items, cooking oils and spices, and a diversity of ethnic and cultural food offerings. To ensure healthy food alternatives, Landlord and Tenant will explore opportunities with partner organizations to provide incentives for businesses that are willing to participate in a healthy nutrition incentive program.

16.8 **Affordable Commercial/Retail Spaces.**

(a) Emerging Subtenants and Mechanisms of Affordability for Emerging Subtenant**s.** Landlord and Tenant intend to provide affordable commercial retail and restaurant space for Emerging Subtenants in the Market Hall. Emerging Subtenants will be given priority when leasing Market Hall Micro Stalls. A minimum of twenty-five percent (25%) of Fixed Wall Leasable Retail Space in the Market Hall will be prioritized to be leased to Emerging Subtenants utilizing the Emerging Subtenant Affordability Strategy. As part of the business plan submitted pursuant to Section 16.9, Tenant shall submit to Landlord for approval a proposed Emerging Subtenant Affordability Strategy for consideration by Landlord and the Stakeholder Advisory Committee referred to in Section (d). The Emerging Subtenant Affordability Strategy shall be subject to annual review and modification which shall take into consideration the current and future Market Hall subtenant mix, market conditions, and community needs to remove barriers to entry and provide affordable points of entry for Emerging Subtenants, and to provide fresh, healthy food and grocery staples to the community. Modification of the Emerging Subtenant Affordability Strategy shall not impact the then existing subtenants that are receiving concessions and will continue to be counted as part of the 25% Fixed Wall Leasable Space. Tenant will actively market the Market Hall spaces and recruit Emerging Subtenants on an ongoing basis in accordance with the Emerging Subtenant Affordability Strategy. Tenant may submit a request to lease Emerging Subtenant priority space to a non-Emerging Subtenant only after a commercially reasonable period of not less than thirty (30) days has passed by providing documentation of the recruitment and marketing efforts, demonstrating a good faith attempt to lease vacant space to an Emerging Subtenant. Notwithstanding anything in Sections 16.8 and 16.9 to the contrary, Tenant may continue to lease the same or substantially similar space to an existing subtenant that was an Emerging Subtenant when such subtenant initially began leasing space in the Project but which no longer qualifies as an Emerging Subtenant after the third year of its sublease, regardless of the impact on the Emerging Subtenant Affordability Strategy.

(b) Long-Term Affordability Provisions. The Emerging Subtenant Affordability Strategy during Initial Lease Up will provide an Emerging Subtenant with three (3) months free rent, followed by nine (9) months of rent at 50% of the then market rental rate for comparable space in the Market Hall. Second year rent will be 75% of the then market rental rate for comparable space in the Market Hall. Third year rent will be 100% of the then market rental rate for comparable space in the Market Hall. After the Initial Lease Up period, Tenant shall provide Emerging Subtenants affordable leases in accordance with the then current Emerging Subtenant Affordability Strategy.

(c) Emerging Subtenant Third Party Support**.** Landlord, or Tenant with Landlord written approval, may opt to contract with a third party to: (1) identify prospective Emerging Subtenants; (2) assist them in securing funding and technical assistance; (3) assist them in negotiating subleases for spaces in the Project; and (4) provide any other services that Emerging Subtenants may need in order to be successful. Landlord will coordinate its selection of any such third party with Tenant. Landlord reserves the right to conduct an audit or cause an audit to be conducted of Tenant's Market Hall rent roll and other property management records once per year to ensure compliance with the above Long-Term Affordability Provisions.

(d) Subtenant Selection Committee. During Initial Lease-Up of subtenants in the Market Hall, a Subtenant Selection Committee will be formed comprising representatives from Landlord, Tenant, and community members as identified by Landlord, to make recommendations to Tenant regarding subtenant mix and selection during Initial Lease-Up of subtenant spaces in the Market Hall.

(e) Stakeholder Advisory Committee. During the Initial Lease-Up period and continuing throughout the duration of the Affordability Period, Landlord and Tenant will support the formation of a Market Hall Stakeholder Advisory Committee to advise Tenant and Tenant's Market Manager on how to program the Market Hall to meet community needs and preferences regarding products, events, programming, affordability, and other operational and leasing considerations. Participation in the Stakeholder Advisory Committee will be voluntary and open to all Market Hall subtenants, a representative from the Landlord, a representative from the Tenant, and community members as identified by Landlord. Stakeholder Advisory Committee shall meet on an as-needed basis throughout the Affordability Period, but not less than annually. Additional roles and responsibilities of the Stakeholder Advisory Committee shall be determined prior to opening of the Market Hall and memorialized in a business plan for the Market Hall agreeable to both Landlord and Tenant. Tenant shall make commercially reasonable efforts to incorporate and effect the recommendations of Stakeholder Advisory Committee into the operations, leasing and tenant mix, programming, and affordability of the Market Hall; however, such recommendations by the Stakeholder Advisory Committee to Tenant shall not be binding upon Tenant, and failure to bring such recommendations into effect shall not constitute a breach of this Lease, except as otherwise provided in this Lease.

(f) During the Affordability Period, Tenant shall submit an annual report each anniversary of the Commencement Date of the Ground Lease, documenting compliance with this provision. In addition to being a material term of this Lease, this Section 16.8 constitutes a restrictive covenant and equitable servitude burdening the Improvements and Tenant and benefitting the ground and Landlord.

(g) Definitions for Section 16.8. The following definitions apply to Section 16.8:

"Emerging Subtenant" means an entrepreneur or small business that is owned and operated by a member of an underrepresented population, who may employ a small number of employees. Underrepresented populations include communities of color, immigrants, women, veterans, and business-owners from low-income neighborhoods. Emerging Subtenants are also retail and restaurant businesses that specialize in providing goods or services to the local community and generate regular foot traffic to the site. Subtenant may be a first-time business owner or emerging small business as defined by Business Oregon (certification office for business inclusion and diversity) under OAR 123-200-1600, with no more than three years of owning a business. Emerging Subtenants must, directly or with the assistance of a third party, demonstrate financial and business qualifications in accordance with Tenant's leasing criteria. Priority will be given to Rockwood-based businesses that align with the goals of the Rockwood Rising Market Hall business plan, entrepreneurs earning 80% or less of the median family income for the Portland metro area, and food businesses providing fresh, healthy, local products.

"Fixed Wall Leasable Retail Space" means the Market Hall retail and/or restaurant spaces that are fully demised and conditioned. These spaces do not have a daily rental rate.
Office and administrative spaces, and commissary kitchens are specifically excluded from this definition.

"Affordability Period" means the period from the date a Certificate of Occupancy for the Market Hall is issued by the City of Gresham, to the twenty-fifth (25th) anniversary of said Certificate of Occupancy.

"Emerging Subtenant Affordability Strategy" means the annually revised strategy that will be proposed by Tenant and approved by Landlord to be used to support the intent to provide affordable commercial retail space to Emerging Subtenants in the Market Hall. After the Initial Lease Up period, this strategy may include rental concessions, rental rate freezes, percentage rent leases, or any method to provide affordability to an Emerging Subtenant that is mutually agreed to by Landlord and Tenant.

"Market Hall Micro Stalls" means the flexible stalls that can be removed from the Market Hall central floor that will have daily or weekly rent options.

"Initial Lease-Up" means the period from the date of this Ground Lease to the date that is the second anniversary of the Certificate of Occupancy, or the date upon which the Project is 100% leased to subtenants, whichever comes first. Initial Lease-Up may apply to the entire Project, or to any component of the Project, as provided herein.

16.9 **Marketing and Leasing of Commercial Units.** Tenant shall use commercially reasonable efforts to market and lease commercial all units in the Project. Tenant shall create and implement a marketing and leasing plan that addresses the marketing and leasing of commercial units in the Project, which plan shall have been approved in writing by Landlord Executive Director (the "Marketing Plan") no later than three months after commencement of construction.

16.10 **Public Engagement Plan.** Both Tenant and Landlord acknowledge the diverse communities within the Rockwood Neighborhood and the City of Gresham and have participated in a public outreach process to solicit community feedback and engagement about the Project. Outreach began prior to submission of drawings and documents for City of Gresham Design Review and will continue as appropriate through construction and initial leasing.
Consistent with the Development Budget and Development Timeline, Landlord and Tenant will identify and engage in public outreach opportunities to diverse community stakeholders and other interested parties, consistent with the public engagement approach identified by Landlord. The public engagement approach will serve to create a communication protocol, establish a list of interested parties within the neighborhood, and provide opportunities for neighborhood and citywide stakeholder groups to get periodic updates on the Project and provide input at key decision points.

16.11 **Required Sublease Terms.** Each sublease will contain the following terms and conditions:

(a) The sublease will be for a term that will expire before the expiration of the Term:

(b) The sublease will incorporate the application terms, conditions and covenants set forth in this Article 16, and will state that the sublease is subject and subordinate to, this Lease and to any extensions, modifications, or amendments of this Lease;

(c) The sublease will provide that rents due under the sublease (i) have been assigned to Landlord (and Tenant hereby assigns the rents to Landlord), subject to the rights of any leasehold mortgagees, to support performance of Tenant's covenants under this Lease, which assignment will be effective only on the occurrence of any event of default by Tenant under this Lease; (ii) will not be paid more than one month in advance; and (iii) will, subject to the rights of any leasehold mortgagees, on receipt of written notification from Landlord that an event of default has occurred under this Lease, be paid by the subtenant directly to Landlord until the subtenant receives written notice from Landlord that Tenant has cured the event of default or is in the process of curing the event of default in a manner reasonably satisfactory to Landlord;

(d) The sublease will provide that, if this Lease is canceled or terminated before the expiration of the Term, the subtenant will make full and complete attornment to Landlord for the balance of the term of the sublease with the same force and effect as though the sublease were originally made directly from Landlord, as long as Landlord performs the obligations of Tenant as sub-landlord under the sublease, subject to Section 16.12 below.

16.12 **Nondisturbance and Attornment.** If this Lease is terminated prior to its natural expiration date, Landlord shall recognize and not disturb the quiet enjoyment of any sublessee if the sublease (i) was approved by Landlord as provided in Section 16, (ii) is then free from default that has continued beyond any applicable cure period, and (iii) has rents that were commercially reasonable at the time the sublease was entered into, taking into account any discounts resulting from NMTC financing for the Project. In such event, the sublease shall continue in full force and effect as a direct lease between the sublessee and Landlord on all the terms, conditions, and covenants as are set forth in the sublease except that Landlord shall not be

(a) liable for any previous act or omission of the sublessor, (b) subject to any offset, deficiency, or defense that shall have accrued to the sublessee against the sublessor, (c) bound by any previous modification or prepayment of more than one month's rent unless

such modification or prepayment shall have been expressly approved in writing by Landlord, or (c) be liable for the return of any security deposit on the sublease that was not actually transferred to the Landlord. Upon request by Landlord, sublessee shall deliver to Landlord an attornment agreement confirming that the sublessee will attorn to Landlord and recognize it as the sublessee's landlord under the terms of the sublease. On request, Landlord shall confirm in a separate written agreement with any sublessee the non-disturbance obligation of Landlord as set forth in this Section.

16.13 **Sublease Copies.** Upon written request by Landlord, Tenant will promptly deliver to Landlord complete copies of any and all subleases.

Article 17
LANDLORD MORTGAGES

17.1 **Landlord Mortgages.** Landlord has the right at any time and from time to time to borrow against and encumber its interest in the (i) Premises, (ii) improvements, if any, that are paid for solely by Landlord and are constructed after Tenant completes construction of the initial Improvements pursuant to the LDA, and (iii) this Lease (including Landlord's reversionary interest in the Improvements) (collectively, "Landlord's Interest") without having to obtain the consent of Tenant, provided (a) such loan and encumbrance are subordinate and subject to this Lease, and (b) Landlord has provided Tenant with a commercially reasonable form of subordination, non-disturbance, and attornment agreement ("SNDA") executed by Landlord and the holder or beneficiary of the encumbrance and such agreement is recorded in the public records of Multnomah County, Oregon. Any such SNDA shall provide that this Lease will remain undisturbed unless Tenant is in default under this Lease and any Leasehold Mortgagee has failed to exercise its right to cure such default.

17.2 **Acts of Omission.** If any act or omission of Landlord would give Tenant the right, immediately or after lapse of a period of time, to cancel or terminate this Lease, or to claim a partial or total eviction, Tenant will not exercise such right: (i) until it has given written notice of the act or omission to Landlord and each Encumbrance holder whose name and address have previously been furnished to Tenant, and (ii) until a reasonable period of time for the parties to cure the condition has passed.

Article 18
LEASEHOLD MORTGAGES

18.1 **Right to Mortgage Leasehold.** In addition to any other rights granted and without any requirement to obtain Landlord's consent, Tenant has the right to mortgage or grant a security interest in Tenant's interest in this Lease, the Premises, the Project, and the Improvements for a term not to exceed the remaining term of the lease under one or more leasehold mortgages to one or more Lending Institutions (as defined in Section 18.2 below), and to assign this Lease as collateral security for those leasehold mortgages, on the condition that all rights acquired under the leasehold mortgages are subordinate to this Lease subject to every covenant, condition, and restriction set forth in this Lease, and to all rights and interests of Landlord, none of which covenants, conditions, restrictions, rights, or interests is or will be deemed waived by Landlord by reason of the right given to mortgage or grant a security interest in Tenant's interest in this Lease, the Premises, the Project, and the Improvements, except as expressly provided otherwise or agreed in writing by Landlord. Landlord

agrees to provide an estoppel, non-disturbance agreement, and such other accommodations as a Lending Institution may reasonably request to support the lender protections described in this Article.

18.2 **Defined Terms.** Any mortgage, deed of trust, financing statement, security agreement, or other financing instrument granted by Tenant in compliance with this Article 18 is referred to as a "Permitted Leasehold Mortgage," and the holder of or secured party under a Permitted Leasehold Mortgage is referred to as a "Permitted Leasehold Mortgagee." The Permitted Leasehold Mortgage that is prior in lien or interest among those in effect is referred to as the "First Leasehold Mortgage," and the holder of or secured party under the First Leasehold Mortgage is referred to as the "First Leasehold Mortgagee." For the purposes of any rights created under this Article, any so-called wraparound lender will be considered a First Leasehold Mortgagee. If a First Leasehold Mortgage and a Permitted Leasehold Mortgage that is second in priority in lien or interest among those in effect are both held by the same Permitted Leasehold Mortgagee, the two Permitted Leasehold Mortgages are collectively referred to as the First Leasehold Mortgage. The term "Lending Institution" means any commercial, national, or savings bank, savings and loan association, trust company, pension trust, foundation, or insurance company, and any other entity, person, corporation, partnership, or otherwise making a loan on the security of Tenant's interest in this Lease, the Project, or any portion of the Premises or the Improvements. In the event NMTC financing is arranged for the Project, "Lending Institution" shall also mean a Community Development Entity ("CDE" or "Sub-CDE") providing financing to the Project.

18.3 **Lender Protections.** If a Permitted Leasehold Mortgagee sends to Landlord a true copy of its Permitted Leasehold Mortgage, together with written notice specifying the name and address of the Permitted Leasehold Mortgagee, then as long as the Permitted Leasehold Mortgage remains unsatisfied of record or until written notice of satisfaction is given by the holder to Landlord, the following provisions will apply (in respect of the Permitted Leasehold Mortgage and of any other Permitted Leasehold Mortgages):

(a) This Lease may not be (i) amended or modified, or (ii) terminated or canceled by reason of the exercise of any option or election by Tenant, or by the giving of any notice by Tenant, unless such amendment, modification, termination, or cancellation by Tenant is assented to in writing by the Permitted Leasehold Mortgagee. Any such attempted amendment or modification, termination, or cancellation by Tenant without the Permitted Leasehold Mortgagee's assent is void. Furthermore, no mergers will result from the acquisition by, or devolution upon, any one entity of the fee and the leasehold estates in the Premises, the Project, or the Improvements.

(b) Except as otherwise provided in Section 26.5, upon serving Tenant with any notice under this Lease, whether of default or any other matter, Landlord will simultaneously serve a copy of the notice on the Permitted Leasehold Mortgagee, and no notice to Tenant will be deemed given unless a copy is so served on the Permitted Leasehold Mortgagee in the manner provided in this Lease for giving notices.

(c) In the event of any default by Tenant under this Lease, each Permitted Leasehold Mortgagee has the same period as Tenant has, plus thirty (30) days, after service of notice on it of the default, to remedy or cause to be remedied or, if such default cannot be remedied within such period, to commence remedy of the default complained of, and Landlord must accept that performance by or at the instigation of the Permitted Leasehold Mortgagee as if the same had been done by Tenant. Each notice of default given by Landlord must state the amount of any Rent that is then claimed to be in default.

(d) If Landlord elects to terminate this Lease because of any default of Tenant, the Permitted Leasehold Mortgagee will have, in addition to the rights granted under the preceding Section, the right to postpone and extend the specified date for the termination of this Lease as fixed by Landlord in its notice of termination, for a period of twelve (12) months, as long as the Permitted Leasehold Mortgagee (i) cures or causes to be cured any then-existing defaults in payment of Rent and meanwhile pays the Rent, and forthwith takes steps to acquire or sell Tenant's interest in this Lease by foreclosure of the Permitted Leasehold Mortgage or otherwise and prosecutes the same to completion with reasonable diligence and continuity. If, at the end of the 12-month period, the Permitted Leasehold Mortgagee is actively engaged in steps to acquire or sell Tenant's interest, the time of the Permitted Leasehold Mortgagee to comply with the provisions of this Section will be extended for a period of six (6) months or such longer period as may be required to complete those steps with reasonable diligence and continuity.

(e) Landlord agrees that if this Lease is terminated by reason of any default by Tenant, other than for nonpayment of the Rent and other payments herein provided for, Landlord will enter into a new lease for the Premises, the Project, and the Improvements with the holder of the then First Leasehold Mortgage on this Lease, or with its nominee or designee, for the remainder of the Term, effective as of the date of the termination, at the Rent and on the other terms and provisions as herein contained and subject only to the same conditions of title as this Lease was subject on the date of the execution hereof, and to the rights, if any, of any parties then in possession of the Premises or any portion thereof, provided as follows: (i) The holder will request the new lease within thirty (30) days after the date of termination of the Lease; (ii) the holder will pay to Landlord at the time of execution and delivery of the new lease all sums as to which the First Leasehold Mortgagee will have been provided with prior notice and which would at the time of execution and delivery thereof be due under this Lease had it not terminated, together with any expenses, including reasonable attorney fees, to which Landlord will have been subjected by reason of the default; (iii) Landlord will not warrant possession of the Premises to the tenant under the new lease; (iv) the new lease will be expressly made subject to the rights, if any, of Tenant under the terminated Lease; (v) tenant under the new lease will have the same right, title, and interest in and to the Premises as Tenant had under this Lease (except as otherwise expressly provided herein); and (vi) the holder will not be obligated to perform any obligations of Tenant hereunder until the holder actually acquires possession of the Premises.

(f) Nothing herein contained will require any holder of a Permitted Leasehold Mortgage or its nominee or designee to cure any default that occurs as a result of the status of Tenant such as Tenant's bankruptcy, insolvency, reorganization, or other proceeding under the bankruptcy or insolvency laws of the United States or the State of Oregon or otherwise, or to require the Permitted Leasehold Mortgagee or its nominee to discharge any lien, charge, or encumbrance against Tenant's interest in this Lease junior in priority to the lien of the Permitted Leasehold Mortgage.

(g) Landlord agrees to amend this Lease from time to time to the extent reasonably requested by a Lending Institution proposing to make Tenant a loan secured by a Permitted Leasehold Mortgage, as long as such proposed amendments do not subordinate or materially and adversely affect the rights, obligations, or liabilities of Landlord or Landlord's interest in the Premises, the Project or the Improvements. All reasonable expenses Landlord incurs in connection with any such amendment will be paid by Tenant.

(h) Landlord agrees that the name of any Permitted Leasehold Mortgagees may be added to the "loss payable endorsement" of any or all insurance policies required to be carried by Tenant.

(i) The First Leasehold Mortgagee and any CDE or Sub-CDE shall be given notice of any arbitration or other proceeding or dispute by or between the parties and shall have the right to intervene and be made a party to any such arbitration or other proceeding. In any event, each Permitted Leasehold Mortgagee shall receive notice of, and a copy of, any award or decision made in the arbitration or other proceeding.

(j) Any award or payment in condemnation or eminent domain in respect of the real property owned by GRDC shall be paid to GRDC. Any award or payment in condemnation or eminent domain in respect of the Improvements or Tenant's interest under this Lease shall be paid to the First Leasehold Mortgagee for the benefit of the parties and applied in the manner specified in this Lease.

(k) To the extent required by any Permitted Leasehold Mortgagee, no fire or casualty loss claims shall be settled and no agreement will be made in respect of any award or payment in condemnation or eminent domain without in each case the prior written consent of the First Leasehold Mortgagee.

(1) No liability for the payment of Rent or the performance of any of Tenant's covenants and agreements shall attach to or be imposed on the Permitted Leasehold Mortgagee (other than any obligations assumed by the Permitted Leasehold Mortgagee), all such liability (other than any obligations assumed by the Permitted Leasehold Mortgagee) being expressly waived by Landlord.

(m) No payment made to Landlord by any Permitted Leasehold Mortgagee shall constitute agreement that such payment was, in fact, due under the terms of this Lease; and the Permitted Leasehold Mortgagee having made any payment to Landlord pursuant to Landlord's wrongful, improper, or mistaken notice or demand shall be entitled to the return of any such payment or portion, provided it shall have made demand not later than one year after the date of its payment.

(n) Landlord, on request, shall execute, acknowledge, and deliver to each Permitted Leasehold Mortgagee an agreement prepared at the sole cost and expense of Tenant, in form satisfactory to the Permitted Leasehold Mortgagee and Landlord, among Landlord, Tenant, and the Permitted Leasehold Mortgagee, agreeing to all the provisions of this Section.

(o) Landlord shall at no time be required to subordinate its fee simple interest in the Premises or Landlord's interest in the lease to the lien of any leasehold mortgage, nor to mortgage its fee simple interest in the Premises or Landlord's interest in the lease as collateral or additional security for any leasehold mortgage. Landlord shall attorn to any Permitted Leasehold Mortgagee or any other person who becomes Landlord by, through, or under a Permitted Leasehold Mortgage.

(p) If Tenant is declared bankrupt or insolvent and this Lease is thereafter lawfully canceled or rejected, Landlord shall immediately execute a new lease under the same terms and conditions as this Lease to the Permitted Leasehold Mortgagee or its nominee, provided that all

defaults under this Lease except the bankruptcy or insolvency of Tenant be cured by the Permitted Leasehold Mortgagee or its nominee.

(q) If Landlord declares bankruptcy and Landlord's bankruptcy trustee rejects this Lease when there is a Permitted Leasehold Mortgagee, Tenant's right to elect to terminate this Lease or to retain its rights pursuant to 11 USC §365(h)(1) shall be exercised by the Permitted Leasehold Mortgagee.

Article 19
ESTOPPEL CERTIFICATE

Within fifteen (15) days after a written request is made by a party, the other party will, without charge, give a certification in writing to any person, firm, or corporation reasonably specified by the requesting party stating (a) that this Lease is then in full force and effect and unmodified, or if modified, stating the modifications; (b) that Tenant is not in default in the payment of Rent to Landlord, or if in default, stating the default; (c) that as far as the maker of the certificate knows, neither party is in default in performing or observing any other covenant or condition to be performed or observed under this Lease, or if either party is in default, stating the default; (d) that as far as the maker of the certificate knows, no event has occurred that authorized, or with the lapse of time will authorize, Tenant to terminate this Lease, or if such an event has occurred, stating the event; (e) that as far as the maker of the certificate knows, neither party has any offsets, counterclaims, or defenses, or, if so, stating them; (f) the dates to which Rent has been paid; and (g) any other matters that may be reasonably requested by the requesting party.

Article 20
DEFAULT

The occurrence of any one or more of the following constitutes an event of default under this Lease:

20.l Failure by Tenant to pay Rent or any other amount required to be paid by Tenant to Landlord under this Lease within ten (10) days after written notice of such nonpayment is given to Tenant; provided, however, that Landlord is not required to give Tenant more than one such notice in any consecutive 12-month period. After giving the first such notice to Tenant during a consecutive 12-month period, Tenant will be deemed in default under this Lease for failure to pay Rent or any other amount within ten (10) days after the same becomes due, without notice or opportunity to cure;

20.2 Failure by Tenant to obtain and maintain any insurance or provide evidence of insurance as required by the terms of this Lease and such failure continues and is not remedied within ten (10) days after written notice thereof is given to Tenant;

20.3 Failure by Tenant, whether by action or inaction, to comply with any term or condition or fulfill any obligation under this Lease (other than as set forth in Sections 20.1 and 20.2 above) and such failure continues and is not remedied within thirty (30) days after written notice thereof is given to Tenant; provided, however, that if the failure is of such a nature that it cannot be cured within said 30-day period, then this provision is satisfied if Tenant begins the cure within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the cure;

20.4 Tenant becomes insolvent; Tenant makes an assignment for the benefit of creditors; Tenant files Articles of Dissolution; Tenant files a voluntary petition in bankruptcy; Tenant is adjudged

bankrupt or a receiver is appointed for Tenant's properties; the filing of any involuntary petition of bankruptcy and Tenant's failure to secure a dismissal of the petition within seventy-five (75) days after filing; or the attachment of or the levying of execution on the leasehold interest and Tenant's failure to secure discharge of the attachment or release of the levy of execution within thirty (30) days.

20.5 Prior to issuance of a Notice of Completion under the LDA, Tenant is in default of the LDA beyond any applicable cure period.

20.6 Tenant is in default under any leasehold mortgage or instrument secured by Tenant's interest in the Property, the Premises or the Improvements and the mortgagee or lender commences foreclosure.

Upon written request by Landlord, Tenant will promptly supply Landlord with information about the efforts Tenant has made to cure any breach pursuant to Section 20.3.

Article 21
REMEDIES

21.1 **Remedies.** Upon the occurrence of an event of default, Landlord may exercise any one or more of the remedies set forth in this Section or any other remedy available under applicable law or contained in this Lease:

(a) Landlord may terminate this Lease by written notice to Tenant.

(b) Landlord or Landlord's agent or employee may immediately or at any time thereafter, without terminating the Lease, reenter the Premises and the Improvements either by summary eviction proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution, or damages, and may repossess the same, and may remove any person from the Premises and the Improvements, to the end that Landlord may have, hold, and enjoy the Premises and the Improvements. RE-ENTRY OR TAKING POSSESSION OF THE PREMISES OR THE IMPROVEMENTS BY LANDLORD WILL NOT BE CONSTRUED AS AN ELECTION ON ITS PART TO TERMINATE THIS LEASE UNLESS A WRITTEN NOTICE OF SUCH INTENTION IS GIVEN TO TENANT.

(c) Landlord may, without terminating the Lease, relet the whole or any part of the Premises, the Project, and the Improvements from time to time, either in the name of Landlord or otherwise, to any persons, for any terms ending before, on, or after the expiration date of the Term, at any rentals and on any other conditions (including concessions and free rent) that Landlord determines to be appropriate. To the extent allowed under Oregon law, Landlord will have no obligation to relet all or any part of the Premises, the Project, or the Improvements and will not be liable for refusing to relet the Premises, the Project, or the Improvements, or, in the event of reletting, for refusing or failing to collect any rent due on such reletting; and any action of Landlord will not operate to relieve Tenant of any liability under this Lease or otherwise affect such liability. Landlord at its option may make any physical change to the Premises, the Project, or the Improvements that Landlord, in its sole discretion, considers advisable and necessary in connection with any reletting or proposed reletting, without relieving Tenant of any liability under this Lease or otherwise affecting Tenant's liability.

(d) Whether or not Landlord retakes possession of or relets the Premises, the Project, and the Improvements, Landlord has the right to recover its damages, including without limitation

all lost rentals, all legal expenses, all costs incurred by Landlord in maintaining and restoring the Premises, the Project, or otherwise preparing the Premises, the Project, and the Improvements for reletting, and all costs incurred by Landlord in reletting the Premises, the Project, and the Improvements.

(e) To the extent permitted under Oregon law, Landlord may sue periodically for damages as they accrue without barring a later action for further damages. Landlord may in one action recover accrued damages plus damages attributable to the remaining Term equal to the difference between the Rent reserved in this Lease for the balance of the Term after the time of award and the fair rental value of the Premises, the Project, and the Improvements for the same period, discounted at the time of award at a reasonable rate not to exceed 10 percent per annum. If Landlord relets the Premises, the Project, and the Improvements for the period that otherwise would have constituted all or part of the unexpired portion of the Term, the amount of rent reserved on the reletting will be deemed to be the fair and reasonable rental value for the part or the whole of the Premises, the Project, and the Improvements so relet during the term of the reletting.

(f) Without terminating this Lease, Landlord may bring an action to enforce any term of this Lease. The restrictive covenant and equitable servitude provided for in Section 16.8 also may be enforced as provided by law for enforcement of such covenants and servitudes. In addition to seeking specific performance of such covenant and servitude, Landlord shall be entitled to, as liquidated damages and not a penalty, the amount of rent that Tenant received from any commercial subtenant in excess of the rental limits provided in Section 16.8, provided, however, such liquidated damages shall be recoverable only with respect to excess rents received in the one (1) year period immediately prior to the date of Landlord's demand for such liquidated damages. This limitation shall not apply if Tenant has made a willful material misrepresentation in the annual report(s) required pursuant to Section 16.8

21.2 **Landlord's Self-Help Right.** If Tenant at any time (a) fails to pay any Tax in accordance with the provisions of this Lease, (b) fails to make any other payment required under this Lease, or (c) fails to perform any other obligation on its part to be made or performed under this Lease, then after thirty (30) days' written notice to Tenant (or without notice in the event of an emergency) and without waiving or releasing Tenant from any obligation of Tenant contained in this Lease or from any default by Tenant and without waiving Landlord's right to take any action that is permissible under this Lease as a result of the default, Landlord may, but is under no obligation to, (i) pay any Tax or make any other payment required of Tenant under this Lease, and (ii) perform any other act on Tenant's part to be made or performed as provided in this Lease, and may enter the Premises, the Project, and the Improvements for any such purpose, and take any action that may be necessary. All payments so made by Landlord and all costs and expenses incurred by Landlord, including reasonable attorney fees, in connection with the performance of any such act will constitute additional rent payable by Tenant under this Lease and must be paid to Landlord on demand.

21.3 **No Waiver.** No failure by Landlord to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of full or partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Tenant, and no breach by Tenant, may be waived, altered, or modified except by a written instrument executed by Landlord. No waiver of any breach will affect or alter this Lease, but each and every agreement, term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach.

21.4 **Remedies Cumulative and Nonexclusive.** Each right and remedy provided for in this Lease is cumulative and is in addition to every other right or remedy provided for now or hereafter existing at law or in equity or by statute or otherwise, and Landlord's or Tenant's exercise or beginning to exercise of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise will not preclude the simultaneous or later exercise by the party in question of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Article 22
SALE BY LANDLORD AND LIMITATION OF LANDLORD'S LIABILITY

22.1 **Sale by Landlord.** If the original Landlord under this Lease, or any successor owner of the Premises, sells or conveys the same, and the new owner assumes the obligations of Landlord under this Lease, all liabilities and obligations on the part of the original Landlord or the successor owner under this Lease accruing thereafter will terminate, and thereupon all such liabilities and obligations will be binding on the new owner. Tenant agrees to attorn to the new owner.

22.2 **Nonrecourse Obligation.** Tenant agrees that, regarding any claim against Landlord, including any claim of default by Landlord under this Lease or in any claim or cause of action arising under this Lease or arising out of the landlord-tenant relationship created by this Lease, the sole and exclusive remedy of Tenant will be against Landlord's Interest, as defined above, and Landlord will have no other liability hereunder. Tenant will not enforce any judgment against Landlord except against Landlord's Interest. In no event will any officer, employee, or agent of Landlord have any personal liability to Tenant. Tenant agrees that this provision will apply to any and all liabilities, claims, and causes of action whatsoever, including those based on any provision of this Lease, any implied covenant, or any statute or common law principle. Notwithstanding any other provision of this Lease, in no event whatsoever will Landlord be responsible for any consequential or incidental damages or for any action that Landlord believes in good faith is necessary to comply with Legal Requirements with respect to the Premises, the Project or the Improvements.

22.3 **Tenant's Right of First Offer.** Except as provided in Section 22.3(e), Landlord agrees not to sell, transfer, exchange, grant an option to purchase, or otherwise dispose of Landlord's Interest, as defined above, or any part thereof, without first offering Landlord's Interest to Tenant on the terms and conditions set forth in this paragraph 22.3.

(a) Landlord shall offer Landlord's Interest by written notice to Tenant ("Landlord's Offer"). Landlord's Offer shall state the terms upon which, in good faith, Landlord is willing to sell Landlord's Interest, including:

(i) The purchase price;

(ii) The required earnest money deposit ("Deposit");

(iii) The terms for payment of the purchase price;

(iv) The condition of title that Landlord will deliver at closing;

(v) The form of the conveyance instrument which Landlord will deliver at closing;

(vi) The type and dollar amount of title insurance for the benefit of the buyer, if any, that Landlord will procure and pay for;

(vii) The date of closing;

(viii) The allocation of closing costs and fees and the basis on which any income and expenses relating to Landlord's Interest will be prorated between Landlord and the buyer; and

(ix) Any other material terms.

Landlord further agrees to promptly provide Tenant with any information or documents pertaining to Landlord's Interest and the contemplated sale that Tenant may reasonably request so long as such information or documents are in Landlord's possession or control and can be provided at no substantial expense to Landlord. To the extent that Landlord's Offer fails to address any issue that needs to be resolved in order to close the sale, then the common practice in the county and state where the Property is located for similar transactions shall govern; provided, however, that unless specifically contained in Landlord's Offer, Landlord shall not be required to make any representations or warranties in connection with the sale other than standard title warranties, authority to complete the transaction, and that all information provided by Landlord to the Tenant in Landlord's Offer is true and correct.

The purchase price for Landlord's Interest shall be paid in cash.

(b) Acceptance or Rejection of Landlord's Offer.

(i) Tenant shall have forty-five (45) days after receipt of Landlord's Offer to deliver a written response to Landlord that Tenant agrees to either (i) accept Landlord's Offer and purchase Landlord's Interest on the terms set out therein; or (ii) negotiate the terms of Landlord's Offer as required herein.

(ii) If Tenant does not provide Landlord a written response to Landlord's Offer within such 45 day period, upon the expiration of said 45 day period, Tenant shall be deemed not to have accepted Landlord's Offer, Landlord may immediately offer to sell Landlord's Interest to any third party on not More Favorable Terms than those in Landlord's Offer, subject to subsection 22.3(d) herein.

(iii) If Tenant timely accepts Landlord's Offer, the sale of Landlord's Interest shall be closed in accordance with the terms of Landlord's Offer by a national title insurance company selected by Landlord, subject to the reasonable approval of Tenant, as escrow agent. Tenant shall also immediately place in escrow the required deposit set forth in Landlord's Offer. Notwithstanding the above or any other term or provision of this right of first offer, Tenant shall have a period of at least thirty (30) days (or more if so provided in Landlord's Offer) after receipt of all Landlord's documents to complete Tenant's due diligence investigation of Landlord's Interest and Landlord's documents. For the purpose of such review, Tenant shall be entitled to conduct such tests and investigation as Tenant deems appropriate in its sole discretion, Tenant shall first provide Landlord with written notice of such entry, and Tenant's entry shall not disturb the quiet enjoyment of any tenant, nor shall

Tenant be entitled to undertake do any destructive or invasive testing or investigation. In connection with such entry, Tenant will indemnify, defend, and hold Landlord harmless from any and all claims, demands, losses, costs, and liabilities, including reasonable attorney fees and legal expenses arising from Tenant's or its consultants' or contractors' entry onto the Property pursuant to the terms of this provision. If Tenant is not satisfied with the results of its investigation within such thirty (30) day period, Tenant shall be entitled to provide notice to Landlord of Tenant's termination of Tenant's intent to purchase Landlord's Interest, and such notice shall have the same effect as if Tenant had rejected Landlord's Offer in the first instance.

(iv) If Tenant seeks to negotiate a Landlord's Offer made hereunder, Tenant shall give Landlord written notice of Tenant's request for negotiation, and the parties shall mutually execute a revised and final Landlord's Offer no later than thirty (30) days following Landlord's receipt of Tenant's written notice to negotiate Landlord's Offer (hereinafter the "Negotiation Period"). Landlord will act in good faith as to scheduling and attending meetings with Tenant during the Negotiation Period, provided that nothing herein shall be deemed in any manner to require that Landlord change any terms of Landlord's Offer, and any proposed changes to Landlord's Offer may be made or rejected by Landlord, in Landlord's sole and absolute discretion.

(v) If Tenant accepts Landlord's Offer, including any amendments that may be negotiated during the Negotiation Period, Landlord and Tenant shall cooperate with one another to facilitate the sale of Landlord's Interest in accordance with this right of first offer. Both parties agree that they will execute such additional instruments and take such actions as may be reasonably requested by the other in order to confirm, perfect, or otherwise carry out the intent and purposes of this right of first offer.

(vi) If Tenant accepts Landlord's Offer, including any amendments that may be negotiated during the Negotiation Period, and fails without legal excuse to close the purchase in accordance with the terms of Landlord's Offer, including any amendments that may be negotiated during the Negotiation Period, then this right of first offer shall immediately terminate, Tenant's earnest money shall be forfeited as Landlord's sole and exclusive remedy, and Landlord may sell Landlord's Interest free of any of the restrictions or obligations contained herein.

(c) If Tenant does not accept Landlord's Offer and the Negotiation Period, if any, expires for said offer, and (i) Landlord has not closed the transfer of Landlord's Interest to a third party within one (1) year after the date either Tenant has rejected Landlord's Offer or the time in which Tenant could accept Landlord's Offer has expired, and Landlord wishes to sell Landlord's Interest, or (ii) Landlord wishes to sell Landlord's Interest on More Favorable Terms (as defined in subsection 22.3(d) below) to a third party other than those permitted under subsection 22.3(e), then Landlord must first submit another Landlord's Offer to Tenant (on such More Favorable Terms, if applicable) before selling Landlord's Interest to said third party.

(d) An offer to sell Landlord's Interest to a third party shall be deemed to have "More Favorable Terms" than Landlords' Offer if either: (i) the economic terms of the transaction as a whole in Landlord's offer to a third party regarding Landlord's Interest are more than three percent (3%) more favorable than the economic terms of the transaction as a whole in Landlord's Offer to Tenant for the same property, or (ii) there is a material variation in the non-economic terms of the

third party offer as compared to the non-economic terms of the Landlord's Offer.

Tenant and Landlord agree that the following terms in Landlord's offer to a third party or Tenant are not "economic terms" as defined in this right of first offer:

(i) dates and deadlines regarding closing, inspection contingencies, and due diligence regarding Landlord's Interest; and

(ii) the scope of any buyer's request for document review related to the Property during the inspection contingency and/or the due diligence period.

(e) This right of first offer shall not apply to any transaction permitted under Section 17.1; to any merger of Landlord with, or transfer of substantially all of Landlord's assets to, any other governmental, quasi-governmental or non-profit entity; or to the sale, transfer, exchange or other disposal of Landlord's Interest to the City of Gresham or other governmental entity related to the termination of the Rockwood-West Gresham Urban Renewal Area. However, this right of first offer shall survive any such transaction and shall apply to any sale, transfer, exchange, grant of purchase option or other disposition thereafter of Landlord's Interest or any part thereof.

(f) The right of first offer in favor of Tenant shall terminate upon the sale of Landlord's Interest in a manner consistent with this right of first offer after a Landlord's Offer has been made to Tenant. Upon the termination of the right of first offer in favor of Tenant for any reason, both parties shall cooperate in good faith to execute such documents as may be required to document the termination of the right of first offer of record in the County where the Property is located.

(g) This right of first offer may not be assigned by Tenant separately from its interest in the Lease, except that Tenant may take title to Landlord's Interest in the name of an affiliate. Except as otherwise expressly limited herein, this right of first offer shall be binding upon and shall inure to the benefit of the successors and permitted assigns of Landlord and Tenant. For purposes of this paragraph, "affiliate" shall mean any entity in which Tenant or any direct or indirect owner of Tenant has an ownership interest or a controlling management interest.

(h) To be effective, a notice or other communications required or permitted under this right of first offer must be given, and shall deemed delivered, in the manner set forth in the Lease for giving of notices. In the event a party breaches the provisions of this Section 22.3, the non-breaching party shall have the right to exercise all remedies available at law and in equity, including the right to seek specific performance and other injunctive relief.

(i) If Tenant does not accept Landlord's offer, Tenant shall permit Landlord reasonable access to the Property for purposes of non-invasive inspections, marketing (including signage), and showing to prospective purchasers. Tenant shall reasonably cooperate with Landlord's efforts to sell the Landlord's Interest by providing information or similar assistance. Nothing in this provision shall require Tenant to incur any costs or prohibit Tenant from imposing reasonable terms and conditions to ensure that the operations of Tenant and its subtenants are not unreasonably interfered with or disturbed.

Article 23
SURRENDER AND HOLDOVER

23.1 **Condition of Premises and Improvements.** Upon expiration of the Term or earlier termination of this Lease, Tenant will deliver all keys to Landlord and surrender the Premises and the Improvements in good condition and repair and broom clean (reasonable wear and tear excepted), free and clear of all occupancies other than subleases to which Landlord has specifically consented (when such consent is required) and free and clear of all liens and encumbrances other than those, if any, existing on the date of this Lease or created or suffered by Landlord. Tenant's obligations under this Article will be subject to the provisions of Article 14 relating to damage or destruction and Article 15 relating to condemnation.

23.2 **Tenant's Property.** Before the expiration or earlier termination of this Lease, Tenant will remove all furnishings, furniture, and trade fixtures that remain Tenant's property (the "Tenant's Property"). If Tenant fails to do so, at Landlord's option, (a) the failure to remove Tenant's Property will be deemed an abandonment of Tenant's Property, and Landlord may retain Tenant's Property and all rights of Tenant with respect to it will cease; or (b) by written notice given to Tenant, Landlord may elect to hold Tenant to Tenant's obligation of removal, in which case Landlord may affect the removal, transportation, and storage of Tenant's Property and Tenant will reimburse Landlord for the costs incurred in connection therewith on demand.

23.3 **Holding Over.** Any holding over after the expiration of the Term with the written consent of Landlord will be construed to be a tenancy from month-to-month, at one hundred three percent (103%) of the Rent payable for the period immediately before the expiration of the Term and will otherwise be on the terms and conditions of this Lease. If Landlord consents to Tenant holding over, either party may thereafter terminate the tenancy at any time on thirty (30) days' advance written notice to the other party.

Any holding over after the expiration of the Term without the written consent of Landlord will be construed as a tenancy at sufferance (which Landlord may terminate at any time without notice) and Tenant will be liable for any and all damages resulting from such unauthorized holdover (including, but not limited to, any and all damages that Landlord is required to pay a new tenant for failing to timely deliver any portion of the Premises or the Improvements).

Article 24
CONDITION OF PREMISES

Tenant acknowledges that it has examined the physical condition of the Premises (including whether the Premises contains any Hazardous Substances or fails to comply with any Environmental Laws) and as a result agrees to accept the Premises in "as-is" condition, with all faults. Tenant further acknowledges that no representations or warranties regarding the condition of the Premises have been made by Landlord or any agent or person acting for Landlord, except those expressly set forth in the LDA.

Article 25
QUIET ENJOYMENT

Provided Tenant is not in default under this Lease, Tenant will have quiet enjoyment of the Premises during the Term without hindrance or disturbance by any person claiming by, through, or under Landlord, subject, however, to the encumbrances set forth in Exhibit E (the "Permitted Exceptions").

Article 26
NOTICES

26.1 **Notice Parties and Means of Delivery.** Except as otherwise provided in Section 26.5, any notice required or permitted by the terms of this Lease will be deemed given if delivered personally, sent by United States registered or certified mail, postage prepaid, return receipt requested, or sent by electronic mail transmission (provided a written notice is sent on the next business day by one of the other approved methods of giving notice), and addressed as follows:

If to Landlord:	Gresham Redevelopment Commission
Attention:	Emily Bower 1333 NW Eastman Parkway Gresham, OR 97030 emily.bower@greshamoregon.gov
With a Copy to:	Kevin McConnell, City Attorney 1333 NW Eastman Parkway Gresham, OR 97030 kevin.mcconnell@greshamoregon.gov
If to Tenant:	Rockwood Market Hall
Attention:	Roy Kim 15160 NW Laidlaw Road, Suite 108 Portland, OR 97229 roy@bethanyvillage.com
With a Copy To:	Alan L. Pasternak Law Office of Alan Pasternack 6029 NE 29th Avenue Portland, OR 97211 alan@pasternack.com

Notwithstanding the foregoing, written notice given in any manner other than the manner set forth above shall be effective when received by the individual for whom it is intended. Either party may change its notice address by giving notice of such change to the other party in the manner set forth in this Section 21.1.

26.2 **Duplicate Notice to Permitted Leasehold Mortgagees.** A copy of each notice from Landlord to Tenant must be contemporaneously delivered to each Permitted Leasehold Mortgagee who previously delivered to Landlord its name and address and the other items required by Section 18.3 above. Notice to Tenant shall not be effective as to any Permitted Leasehold Mortgagee that is entitled to notice until a duplicate notice is delivered or deemed delivered pursuant to 26.1 to such Permitted Leasehold Mortgagee.

26.3 **Copies of Certain Notices to Tenant.** Tenant will immediately send to Landlord, in the manner prescribed in this Article, copies of all notices of default that Tenant gives to or receives from any Permitted Leasehold Mortgagee as well as copies of all notices of violation that it receives with respect to the Premises, the Project or the Improvements from any government authority, fire regulatory agency, or similarly constituted body, and copies of its responses to those notices.

26.4 **Failure to Notify of Change of Address or Refusal to Accept a Notice.** Notwithstanding anything in this Article to the contrary, any notice mailed to the last-designated address of any person or party to which a notice may be or is required to be delivered pursuant to this Lease or this Article will not be deemed ineffective if actual delivery cannot be made because of a change of address of the person or party to which the notice is directed or the failure or refusal of such a person or party to accept delivery of the notice.

26.5 **Electronic Mail Notice Sufficient for Certain Purposes.** Notices by either party under Article 6, Section 16.3(c), Section l 6.4(a), Section 16.5, and Section 28.31(b) shall be deemed given when sent by electronic mail transmission (with confirmation of delivery) to the electronic email address for such party set forth above, or to such other electronic mail address the addressee may have designated by notice to the other party in the manner set forth in Section 26.1. The parties will cooperate in facilitating such communications by confirming their receipt of such electronic notices upon request by the sending party. Notwithstanding Sections 26.1, 26.2 or Article 18, copies of notices by either party to the other under Sections Article 6, Section 16.3(c), Section 16.4(a), Section 16.5 and Section 28.3l(b) need not be given to the receiving party's attorneys or mortgagees to be effective notice.

Article 27
TENANT'S OPTION TO PURCHASE

27.1 **Grant of Purchase Option.** At any time after the twentieth (20th) anniversary of the Commencement Date, and if Tenant is not then in default under this Lease, Tenant will have the option, but not the obligation, to acquire Landlord's Interest, including Landlord's right to own the improvements upon Lease termination, from Landlord for the amount described in Exhibit F attached hereto (the "Purchase Option").

27.2 **Exercise of Purchase Option.** Tenant may exercise the Purchase Option by giving Landlord written notice of Tenant's election to exercise the Purchase Option at any time during the Term. Acquisition pursuant to this Article 27, must be closed on or before the expiration of the Term. Notwithstanding the foregoing, if Landlord has provided Tenant written notice of a Landlord's Offer pursuant to Section 22.3 (Tenant's Right of First Offer), and Tenant has not either accepted such offer or exercised this Purchase Option within 45 days thereafter, then Tenant may not exercise- the Purchase Option until the earlier of (i) one year after Landlord's delivery of Landlord's Offer or (ii) the closing of the sale or other disposition of Landlord's Interest by Landlord to a third party.

27.3 **Closing on Purchase.** If Tenant exercises the Purchase Option in accordance with the terms of this Lease, Landlord will, by means of a bargain and sale deed, and an assignment of this Lease in a form reasonably acceptable to Landlord and Tenant, convey title to Landlord's Interest, free and clear of all liens and encumbrances except for the Permitted Exceptions (excluding any mortgages or deeds of trust granted by Landlord or any predecessor in title) and any liens or encumbrances Tenant caused or permitted to attach to Landlord's Interest, or to Tenant's interest in the Premises, the Project, or the Improvements, since the Commencement Date. Landlord will furnish Tenant with a standard owner's title insurance policy issued by a

reputable title insurance company, selected by Landlord and approved by Tenant, which approval may not be unreasonably withheld. The title insurance policy will contain only the standard printed exceptions and the Permitted Exceptions. Landlord will pay the premium for the title insurance policy and the title insurance policy must be delivered to Tenant within a reasonable period of time after the closing. Proration of taxes and other customary adjustments must be made as of the closing date of the conveyance, if necessary given Tenant's obligations under the Lease. Tenant must execute a release, covenant not to sue, hold harmless and indemnification and defense agreement for any and all claims relating to or arising from the condition of the Premises (except Landlord's title and authority to sell) reasonably satisfactory to Landlord, which agreement shall survive the deed indefinitely. The closing must be in escrow at a reputable escrow company selected by Tenant and approved by Landlord, which approval will not be unreasonably withheld. The escrow fee and closing costs will be shared equally by the parties. Before closing on the exercised option, Tenant will cooperate with Landlord in Landlord's efforts, if any, to achieve a tax-free exchange of the subject property.

27.4 Unless otherwise agreed by Landlord, purchase under this Section 27 shall be subject to a restrictive covenant and equitable servitude providing for affordable commercial/retail space for the remainder of the Affordability Period.

27.5 **Statutory Disclosure.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 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. 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Article 28
MISCELLANEOUS

28.1 **Survival.** All agreements (including, but not limited to, indemnification agreements) set forth in this Lease, the full performance of which are not required before the expiration or earlier termination of this Lease, will survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

28.2 **Invalidity.** If any term or provision of this Lease or the application of the Lease to any person or circumstance is, to any extent, held to be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, will not be affected, and each term and provision of this Lease will be valid and be enforced to the fullest extent permitted by law.

28.3 **Force Majeure.** If either party's performance of an obligation under this Lease (excluding a monetary obligation) is delayed or prevented in whole or in part by (a) any Legal Requirement (and not attributable to an act or omission of the party); (b) any act of God, fire, or other casualty, flood, storm, explosion, accident, epidemic, war, civil disorder, strike, or other labor difficulty; (c) shortage or failure of supply of materials, labor, fuel, power, equipment, supplies, or transportation; or (d) any other cause not reasonably within the party's control, whether or not the cause is specifically mentioned in this Lease, the party will be excused, discharged, and released of performance to the extent that such performance or obligation (excluding any monetary obligation) is so limited or prevented by the occurrence without liability of any kind.

28.4 **Nonmerger.** There may be no merger of this Lease, or of the leasehold estate created by this Lease, with the fee estate in the Premises by reason of the fact that this Lease, the leasehold estate created by this Lease, or any interest in this Lease, may be held, directly or indirectly, by or for the account of any person who owns the fee estate in the Premises or any interest in such fee estate. No merger will occur unless and until all persons having an interest in the fee estate in the Premises and all persons (including all Permitted Leasehold Mortgagees) having an interest in this Lease, or in the leasehold estate created by this Lease, join in a written instrument effecting the merger and duly record the same.

28.5 **Costs and Attorney Fees.** If any suit, action, arbitration, or other proceeding of any nature whatsoever, including (without limitation) any proceeding under the U.S. Bankruptcy Code and involving issues peculiar to federal bankruptcy law or any action seeking a declaration of rights or an action for rescission, is instituted to interpret or enforce this Lease or any provision of this Lease, the prevailing party will be entitled to recover from the losing party its reasonable attorney fees as well as reasonable fees for paralegals, accountants, and other experts and professionals and all other fees, costs, and expenses actually incurred and reasonably necessary in connection with the proceeding, including (without limitation) deposition and expert fees and costs incurred in creating exhibits and reports, as determined by the judge or arbitrator at trial or other proceeding, or on any appeal or review, in addition to all other amounts provided by law.

28.6 **Entire Agreement; Counterparts.** This Lease contains the entire agreement between the parties and, except as otherwise provided, can be changed, modified, amended, or terminated only by an instrument in writing executed by the parties. Tenant and Landlord mutually acknowledge and agree that there are no verbal agreements or other representations, warranties, or understandings affecting this Lease. This Lease may be executed in any number of counterparts, including by fax signatures, each of which will constitute an original, but all of which will constitute one Lease.

28.7 **Applicable Law.** This Lease will be governed by, and construed in accordance with, the laws of the State of Oregon.

28.8 **Brokerage.** Landlord and Tenant represent to each other that they have not employed any brokers in negotiating and consummating the transaction set forth in this Lease, but have negotiated directly with each other, and that no brokerage fees are due to any third parties as a result of this Lease.

28.9 **Broker Disclosure.** Josh Fuhrer, Executive Director of Landlord, holds a Real Estate Broker License in the State of Oregon. Mr. Fuhrer is not functioning as a real estate broker in this transaction and is not receiving any fee for acting as a broker.

28.10 **Binding Effect.** The covenants and agreements contained in this Lease are binding on and inure to the benefit of Landlord, Tenant, and their respective successors and assigns.

28.11 **Recordation of Lease.** Tenant may elect that a memorandum of this Lease, executed and acknowledged by both parties, be recorded in the public records of Multnomah County, Oregon in substantially the same form as Exhibit G. Tenant will pay the recording costs.

28.12 **Time Is of the Essence.** Time is of the essence as to the performance of all the covenants, conditions, and agreements of this Lease.

28.13 **Interpretation.** In interpreting this Lease in its entirety, the printed provisions of this Lease and any additions written or typed thereon must be given equal weight, and there must be no inference, by operation of law or otherwise, that any provision of this Lease may be construed against either party hereto. Landlord and Tenant acknowledge that they and their counsel have reviewed and revised this Lease and that any otherwise applicable rule of construction or any other presumption to the effect that any ambiguities are to be resolved against the drafting party will not be used in the interpretation of this Lease or any exhibit or amendment hereto.

28.14 **Headings, Captions, and References.** The headings and captions contained in this Lease are for convenience only and do not in any way define, describe, limit, or amplify the scope or intent of this lease or any term or provision in it. The use of the term "Herein" refers to this Lease as a whole, inclusive of the Exhibits, except when noted otherwise. The use of a masculine or neuter gender in this Lease includes the masculine, feminine, and neuter genders and the singular form includes the plural when the context so requires.

28.15 **Relationship of Parties.** Nothing contained in this Lease is to be deemed or construed, either by the parties to this Lease or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture, or other association between Landlord and Tenant.

28.16 **USA PATRIOT Act Compliance.** Tenant represents to Landlord that Tenant is not (and is not engaged in this transaction on behalf of) a person or entity with which Landlord is prohibited from doing business pursuant to Antiterrorism Laws. "Antiterrorism Laws" means any law, regulation, or executive order pertaining to national security and specifically includes, but is not limited to, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the PATRIOT Act) (Pub L 107-56, 115 Stat 272); the Bank Secrecy Act (31 USC § 5311 *et seq.);* the Trading with the Enemy Act (50 USC App§ 1 *et seq.);* the International Emergency Economic Powers Act (50 USC §§ 1701-1706); sanctions and regulations promulgated pursuant thereto by the Office of Foreign Assets Control, as well as laws related to the prevention and detection of money laundering in 18 USC Sections 1956 to 1957. Tenant hereby agrees to indemnify, defend, and hold Landlord harmless from and against any and all claims, damages, losses, risks, liabilities, and expenses (including attorney fees and costs at trial and on appeal) arising from or related to any breach of the foregoing warranty, representation, and certification. Following a Transfer, Tenant will cause the transferee (including, but not limited to, an assignee, subtenant, and licensee), for the benefit of Landlord, to reaffirm, on behalf of such transferee, the representations of, and to otherwise comply with the obligations set forth in this Section 28.16, and it is reasonable for Landlord to refuse to consent to a Transfer in the absence of such reaffirmation and compliance.

28.17 **Discrimination.** Tenant, for itself and its successor and assigns, agrees that, during the construction of the Project, Tenant will not discriminate against any contractor, employee or applicant for employment because of race, color, ethnicity, religion, marital status, disability, political affiliation, age, gender, sexual orientation or national origin.

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

28.19 **Waivers.** 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 Lease shall be considered a waiver of any other rights of the Party making the waiver. No waiver by Landlord or Tenant of any provision of this Lease 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.

28.20 **Venue, Consent to Jurisdiction.** Any action or suit to enforce or construe any provision of this Lease by any Party must be brought in the Circuit Court of the State of Oregon for Multnomah County or, if the action or suit must be brought in a federal forum, the United States District Court for the District of Oregon in Portland, Oregon. Each Party, by execution of this Lease, consents to the in personam jurisdiction of said courts.

28.21 **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.

28.22 **Construction.** In construing this Lease, 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.

28.23 **Legal Purpose.** Tenant agrees to use the Project solely for lawful purposes.

28.24 **Amendments and Modifications.** Any modifications to this Lease must be made in writing and executed by all Parties, with the approval of the governing body of the Landlord, if required.

28.25 **Successors and Assigns.** Subject to the provisions of Article 7, the benefits conferred by this Lease, and the obligations assumed thereunder, shall inure to the benefit of and bind the successors and permitted assigns of the Parties.

28.26 **Non-waiver of Government Rights.** Subject to the terms and conditions of this Lease, by making this Lease, Landlord is specifically not obligating itself, the City of Gresham, or any other agency with respect to any discretionary action relating to development or operation of the improvements to be constructed on the Property, including, but not limited to, rezoning, variances, environmental clearances or any other governmental approvals which are or may be required.

28.27 **Approvals.** Where this Lease requires the approval of Landlord, Landlord will approve or disapprove in writing within forty-five (45) days after receipt of the material to be approved, except where a longer or shorter time period is specifically provided to the contrary, and further excepting construction change orders, to the extent governed by applicable loan documents, which will be processed according to the applicable loan documents. Failure by Landlord to approve or disapprove within said period of time shall be deemed an approval. Any disapproval shall state the reasons for such disapproval. Approvals will not be unreasonably withheld, conditioned, or delayed, except where rights of approval are expressly reserved to Landlord's sole discretion in this Lease. Tenant, upon receipt of

such disapproval, may revise such disapproved portions in a manner responsive to the stated reasons for disapproval and resubmit the same to Landlord.

28.28 **Approval by Landlord's Director.** Except as provided for elsewhere in this Lease, whenever consent or approval by Landlord is required under the terms of this Lease, all such consents or approvals shall be given in writing from the Executive Director of Landlord or his or her designee.

28.29 **No Third-Party Beneficiary Rights.** Except for the rights of any Permitted Leasehold Mortgagees, no person not a party to this Lease is an intended beneficiary of this Lease, and no person not a party to this Lease shall have any right to enforce any term of this Lease.

28.30 **Confidentiality.**

(a) Except for published information or information ascertainable from public records, any confidential information furnished or disclosed by either party in connection with the Project, will be held 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.

(b) Tenant acknowledges that information provided to the Landlord is subject to the Oregon Public Records Law (ORS 192.410 to 192.505). If the Tenant submits information to the Landlord in confidence which should be reasonably considered to be confidential, such as Tenant's or Tenant's members' financial information, projected Project costs, Project pro forma statements, lender correspondence or documentation, information, or Tenant's member's personal information, and the Landlord obliges itself in good faith not to disclose the information, the Landlord will consider whether the public interest will suffer from the disclosure of such information, and if so, to the extent allowed by state law, Landlord will hold in confidence such information, and will not divulge such information to any third party, except for Landlord's advisors and consultants. To be considered confidential information, any materials submitted must be marked as "Submitted in Confidence" or "Confidential" on the first page of any such materials. As between the Parties, the Landlord's decision to disclose or to hold information in confidence shall be final.

(c) In the case of Tenant default, then Tenant will return all confidential information to the Landlord.

28.31 **Publicity**

(a) **Cooperation Regarding Initial Announcements.** The parties shall cooperate to draft all appropriate press releases and other public announcements relating to the execution of this Lease and the relationship between the parties. This provision shall not require consent or Landlord involvement in general promotional information Tenant may provide on its website or through other means.

(b) **Disclosure of Tenant Identities.** Tenant shall not issue any public announcement or press release regarding the identity of prospective tenants of the Project without giving Landlord at least five (5) days' prior written notice. Landlord shall not issue any public announcement or press release regarding the identity of prospective tenants of the Project without Tenant's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed. If, during the Lease Term, Landlord ceases efforts to help identify prospective tenants for the Project, Landlord will give Tenant written notice of the cessation, in which event Tenant shall no longer be obligated

to provide prior notice of such announcements to Landlord unless and until Landlord resumes efforts to help identify prospective subtenants and gives Tenant written notice of such resumption and Landlord expressly requests that Tenant resume giving Landlord prior written notice of such public announcements.

28.32 **Incorporation.** The exhibits attached to this Lease are incorporated intoand made a part of this Lease.

Article 29
LANDLORD'S RIGHT OF FIRST OFFER

29.1 **Right of First Offer.** Except as provided in Section 29.l(e), Tenant agrees notto sell, transfer, exchange, grant an option to purchase, or otherwise dispose of Tenant's interest in (i) the Premises, (ii) the Improvements, or (iii) this Lease (collectively, "Tenant's Interest"), or any part thereof, without first offering such property to Landlord on the terms and conditions set forth in this paragraph 29.1.

(a) Tenant shall offer the property to be sold (the "Offered Property") by written notice to Landlord ("Tenant's Offer") identifying the Offered Property. Tenant's Offer shall state the terms upon which, in good faith, Tenant is willing to sell the Offered Property, including:

(i) The purchase price;

(ii) The required earnest money deposit ("Deposit");

(iii) The terms for payment of the purchase price;

(iv) The condition of title that Tenant will deliver at closing;

(v) The form of the conveyance instrument which Tenant will deliver at closing;

(vi) The type and dollar amount of title insurance for the benefit of the buyer, if any, that Tenant will procure and pay for;

(vii) The date of closing;

(viii) The allocation of closing costs and fees and the basis on which any income and expenses relating to the Offered Property will be prorated between Tenant and the buyer; and

(ix) Any other material terms.

Tenant further agrees to promptly provide Landlord with any information or documents pertaining to the Offered Property and the contemplated sale that Landlord may reasonably request so long as such information or documents are in Tenant's possession or control and can be provided at no substantial expense to Landlord. To the extent that Tenant's Offer fails to address any issue that needs to be resolved in order to close the sale, then the common practice in the county and state where the Offered Property is located for similar transactions shall govern;

provided, however, that unless specifically contained in Tenant's Offer, Tenant shall not be required to make any representations or warranties in connection with the sale other than standard title warranties, authority to complete the transaction, and that all information provided by Tenant to Landlord in Tenant's Offer is true and correct.

The purchase price for the Offered Property shall be paid in cash.

(b) Acceptance or Rejection of Tenant's Offer.

(i) Landlord shall have forty-five (45) days after receipt of Tenant's Offer to deliver a written response to Tenant that Landlord agrees to either (i) accept Tenant's Offer and purchase the Offered Property on the terms set out therein; or (ii) negotiate the terms of Tenant's Offer as required herein.

(ii) If Landlord does not provide Tenant a written response to Tenant's Offer within such 15 day period, upon the expiration of said 15 day period, Landlord shall be deemed not to have accepted Tenant's Offer, and Tenant may immediately offer to sell the Offered Property to any third party on not More Favorable Terms than those in Tenant's Offer and subject to 29.l(d) herein.

(iii) If Landlord timely accepts Tenant's Offer, the sale of the Offered Property shall be closed in accordance with the terms of Tenant's Offer by a national title insurance company selected by Landlord, subject to the reasonable approval of Tenant, as escrow agent. Landlord shall also immediately place in escrow the required deposit set forth in Tenant's Offer. Notwithstanding the above or any other term or provision of this right of first offer, Landlord shall have a period of at least thirty (30) days (or more if so provided in Tenant's Offer) after receipt of all Tenant's documents to complete Landlord's due diligence investigation of the Offered Property and Tenant's documents. For the purpose of such review, Landlord shall be entitled to enter the Offered Property to conduct such tests and investigation as Landlord deems appropriate in its sole discretion, Landlord shall first provide Tenant with written notice of such entry, and Landlord's entry shall not disturb the quiet enjoyment of any tenant on the Offered Property, nor shall Landlord be entitled to undertake do any destructive or invasive testing or investigation. In connection with such entry, Tenant will indemnify, defend, and hold Landlord harmless from any and all claims, demands, losses, costs, and liabilities, including reasonable attorney fees and legal expenses arising from Landlord's or its consultants' or contractors' entry onto the Offered Property pursuant to the terms of this provision. If Landlord is not satisfied with the results of its investigation within such thirty (30) day period,
Landlord shall be entitled to provide notice to Tenant of Landlord's termination of Landlord's intent to purchase the Offered Property, and such notice shall have the same effect as if Landlord had rejected Tenant's Offer in the first instance.

(iv) If Landlord seeks to negotiate a Tenant's Offer made hereunder, Landlord shall give Tenant written notice of Tenant's request for negotiation, and the parties shall mutually execute a revised and final Tenant's Offer no later than thirty (30) days following Tenant's receipt of Landlord's written notice to negotiate Tenant's Offer (hereinafter the "Negotiation Period"). Tenant will act in good faith as to scheduling and attending meetings with Landlord during the Negotiation Period, provided that nothing herein shall be deemed in any manner to require that Tenant change any terms of Tenant's Offer and

any proposed changes to Tenant's Offer may be made or rejected by Tenant, in Tenant's sole and absolute discretion.

(v) If Landlord accepts Tenant's Offer, including any amendments that may be negotiated during the Negotiation Period, Landlord and Tenant shall cooperate with one another to facilitate the sale of the Offered Property in accordance with this right of first offer. Both parties agree that they will execute such additional instruments and take such actions as may be reasonably requested by the other in order to confirm, perfect, or otherwise carry out the intent and purposes of this right of first offer.

(vi) If Landlord accepts Tenant's Offer, including any amendments that may be negotiated during the Negotiation Period, and fails without legal excuse to close the purchase in accordance with the terms of Tenant's Offer, including any amendments that may be negotiated during the Negotiation Period, then this right of first offer shall immediately terminate, Landlord's earnest money shall be forfeited as Tenant's sole and exclusive remedy, and Tenant may sell the Offered Property or any part thereof free of any of the restrictions or obligations contained herein.

(c) If Landlord does not accept Tenant's Offer and the Negotiation Period, if any, expires for said offer, and (i) Tenant has not closed the transfer of the Offered Property to a third party within one (1) year after the date either Landlord has rejected Tenant's Offer or the time in which Landlord could accept Tenant's Offer has expired, and Tenant wishes to sell the Offered Property, or (ii) Tenant wishes to sell the Offered Property on More Favorable Terms (as defined in subsection 29.l(d) below) to a third party other than those permitted under subsection 29.l(e), then Tenant must first submit another Tenant's Offer to Landlord for the Offered Property (on such More Favorable Terms, if applicable) before selling the Offered Property to said third party.

(d) An offer to sell the Offered Property to a third party shall be deemed to have "More Favorable Terms" than the Tenant's Offer if either: (i) the economic terms of the transaction as a whole in Tenant's offer to a third party regarding the Offered Property are more than three percent (3%) more favorable than the economic terms of the transaction as a whole in Tenant's Offer for the same property, or (ii) there is a material variation in the non-economic terms of the third party offer as compared to the non-economic terms of the Tenant's Offer.

Tenant and Landlord agree that the following terms in Tenant's offer to a third party or Landlord are not "economic terms" as defined in this right of first offer:

(i) dates and deadlines regarding closing, inspection contingencies, and due diligence regarding the Offered Property; and

(ii) the scope of any buyer's request for document review related to the Property during the inspection contingency and/or the due diligence period.

(e) This right of first offer shall not apply to any subleasing; to any transfer permitted under Section 18. l; to any sale or other transfer of any direct or indirect ownership interests in Tenant; to any transfers between Tenant and one or more of its direct or indirect owners; or to any transfers between Tenant and any entity in which one or more of its direct

or indirect owners has an ownership interest.

(f) The right of first offer in favor of Landlord shall terminate upon the sale of the Offered Property in a manner consistent with this right of first offer after a Tenant's Offer has been made to Landlord. Upon the termination of the right of first offer in favor of Landlord for any reason, both parties shall cooperate in good faith to execute such documents as may be required to document the termination of the right of first offer of record in the County where the Offered Property is located.

(g) This right of first offer may not be assigned by Landlord separately from its interest in the Lease, except that Landlord may take title to the Offered Property in the name of an affiliate. Except as otherwise expressly limited herein, this right of first offer shall be binding upon and shall inure to the benefit of the successors and permitted assigns of Landlord and Tenant. For purposes of this paragraph, "affiliate" shall mean any entity in which Landlord or any direct or indirect owner of Landlord has an ownership interest or a controlling management interest.

(h) To be effective, a notice or other communications required or permitted under this right of first offer must be given, and shall deemed delivered, in the manner set forth in the Lease for giving of notices. In the event a party breaches the provisions of this Section 29.1, the non-breaching party shall have the right to exercise all remedies available at law and in equity, including the right to seek specific performance and other injunctive relief.

29.2 **Statutory Disclosure.** THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 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. 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

[Signatures on Next Page]

IN WITNESS WHEREOF, Tenant and Landlord have caused this Lease to be executed by their duly authorized representatives as of the day and year first written above.

LANDLORD:

GRESHAM REDEVELOPMENT COMMISSION,
the duly designated Urban Renewal Agency of the City of Gresham.

By: _____
Emily Bower, Interim Executive Director

APPROVED AS TO FORM:

By: _____
Kevin McConnell, Attorney
Gresham Redevelopment Commission

TENANT:

ROCKWOOD MARKET HALL, an Oregon nonprofit corporation

By: _____

Name: _____

Its: _____

EXHIBIT A

Property

Phase I

Building A:

Parcel 2, PARTITION PLAT NO. 2019-53, in the City of Gresham, County of Multnomah and State of Oregon, according to the plat recorded October 7, 2019, as Document No. 2019-107204.

AND

Building D:

Parcel 1, PARTITION PLAT NO. 2015-97, in the City of Gresham, County of Multnomah and State of Oregon, according to the plat recorded November 25, 2015, as Document No 2015-149706.

Phase II

Building C and Plaza:

Parcel 1, PARTITION PLAT NO. 2019-53, in the City of Gresham, County of Multnomah and State of Oregon, according to the plat recorded October 7, 2019, as Document No. 2019-107204.

EXHIBIT B

Phase II Property

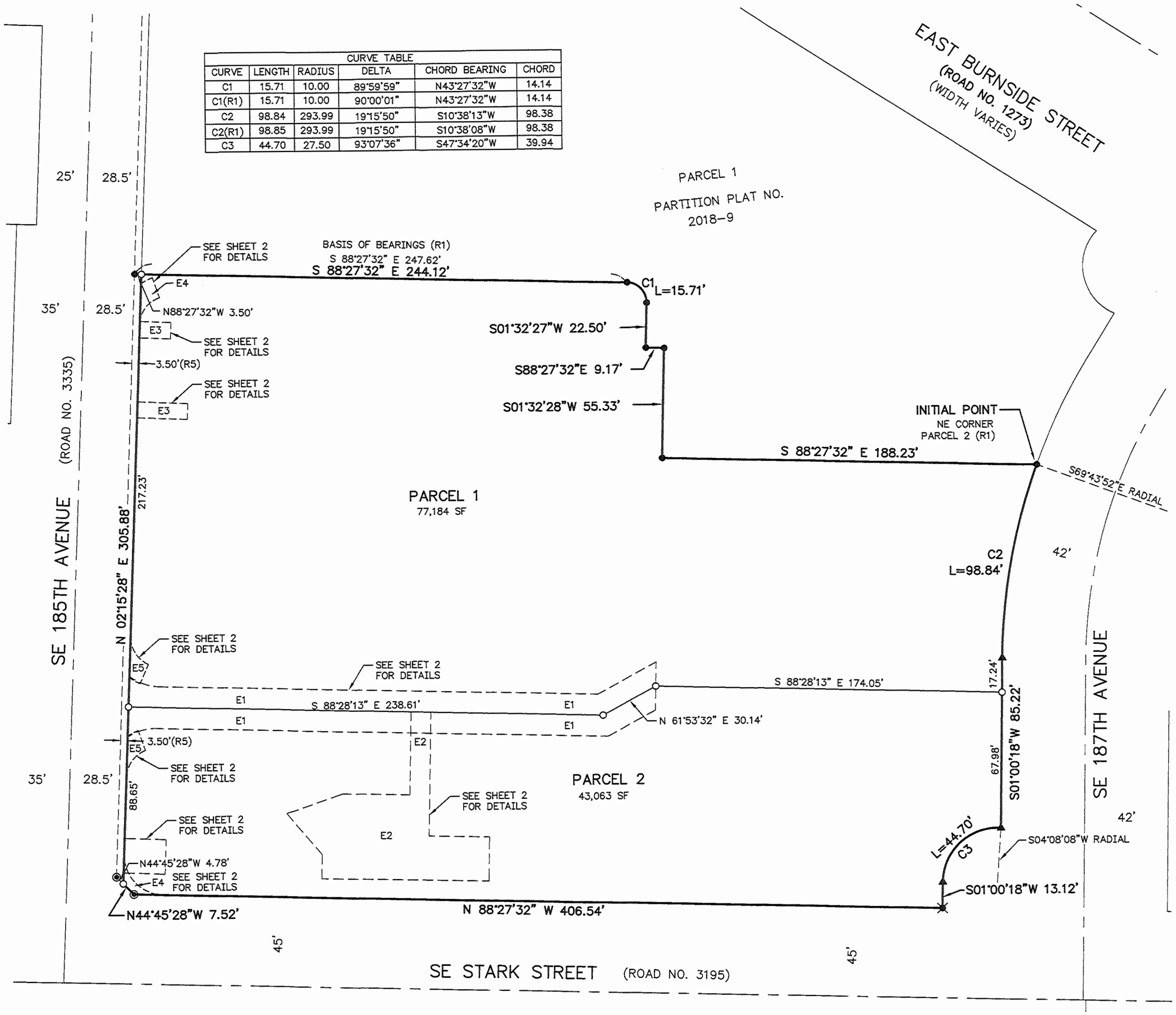
(see attached)

PARTITION PLAT NO. 2019-53

A REPLAT OF A PORTION OF
PARCEL 2, PARTITION PLAT NO. 2018-9
LOCATED IN THE
S.W. 1/4 OF SECTION 32, T.1N., R.3E., W.M.
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	15.71	10.00	89°59'59"	N43°27'32"W	14.14
C1(R1)	15.71	10.00	90°00'01"	N43°27'32"W	14.14
C2	98.84	293.99	19°15'50"	S10°38'13"W	98.38
C2(R1)	98.85	293.99	19°15'50"	S10°38'08"W	98.38
C3	44.70	27.50	93°07'36"	S47°34'20"W	39.94



NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO REPLAT AND PARTITION INTO TWO PARCELS ALL OF THAT PROPERTY DESCRIBED AS PARCEL 2 IN PARTITION PLAT NO. 2018-9, MULTNOMAH COUNTY PLAT RECORDS, EXCEPTING THAT PORTION DESCRIBED IN RIGHT OF WAY DEDICATION RECORDED 2-20-19, AS DOCUMENT NO. 2019-018067, MULTNOMAH COUNTY DEED RECORDS..

THE BASIS OF BEARINGS IS THE MOST NORTHERLY BOUNDARY LINE WHICH WAS HELD AS NORTH 88°27'32" WEST PER PARTITION PLAT NO. 2018-9, MULTNOMAH COUNTY PLAT RECORDS.

THE BOUNDARY WAS RESOLVED BY HOLDING ALL EXTERIOR MONUMENTS OF PARCEL 2, OF SAID PARTITION PLAT NO. 2018-9, AND OFFSETTING THE WEST PARCEL LINE EASTERLY 3.50 FEET PER SAID DOCUMENT NO. 2019-018067.

BY HOLDING THE ADJACENT TANGENTS, CURVES 1 AND 2 WERE FOUND TO HAVE SLIGHTLY DIFFERENT CURVE DATA THAN THAT SHOWN ON R1.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 15, 1987
JON T. FEIGION
2252

EXPIRES 12-31-19

I HEREBY CERTIFY THAT THIS A TRUE AND EXACT COPY OF THE ORIGINAL PARTITION PLAT.

REFERENCES

R1 PARTITION PLAT NO. 2018-9
R2 PARTITION PLAT NO. 2015-97
R3 SN 63801
R4 SN 60376
R5 RIGHT-OF-WAY DEDICATION PER DOCUMENT NO. 2019-018067

LEGEND

- ● FOUND 5/8" IR WITH YPC MARKED "DEA INC" SET IN R1
- ⊗ FOUND 5/8" IR WITH YPC MARKED "MULT CO. SURVEY" SET IN R3
- ▲ FOUND 5/8" IR WITH 2" AC MARKED "MULTNOMAH COUNTY SURVEYOR" PER SN63801 WITH PUNCH MARK SET IN R3
- ◉ FOUND 1" COPPER ALLOY BERNTSEN DISK WITH PUNCH MARK MARKED "MULT. CO SURVEY" SET IN R4
- ○ SET 5/8" X 30" IRON ROD WITH YPC MARKED "EMERIO DESIGN" SET ON 7-16-19

IR IRON ROD
YPC YELLOW PLASTIC CAP
AC ALUMINUM CAP
SF SQUARE FEET
SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
R2 REFERENCE NUMBER
DOC. NO. DOCUMENT NUMBER, MULTNOMAH COUNTY DEED RECORDS
E1 PRIVATE SANITARY SEWER, PRIVATE STORM SEWER AND JOINT ACCESS EASEMENT TO BENEFIT PARCELS 1 AND 2 CREATED ON PLAT
E2 PRIVATE STORM WATER EASEMENT TO BENEFIT PARCEL 1 CREATED ON PLAT
E3 PUBLIC WATER EASEMENTS TO BENEFIT ROCKWOOD WATER PUD CREATED ON PLAT
E4 PUBLIC STREET LIGHTING FACILITIES AND PUBLIC SIDEWALK EASEMENTS PER DOCUMENT NO. 2019-018066
E5 PUBLIC SIDEWALK EASEMENTS CREATED ON PLAT

SHEET INDEX

SHEET 1 PARTITION PLAT NARRATIVE, LAYOUT, PARCEL DIMENSIONS, REFERENCES
SHEET 2 PARTITION PLAT EASEMENT DETAILS
SHEET 3 PARTITION PLAT NOTES, SURVEYOR'S CERTIFICATE, DECLARATION, ACKNOWLEDGEMENTS, APPROVALS

NORTH

SCALE: 1"=40'

0' 40' 80'

EMERIO Design
6445 SW FALLBROOK PLACE, STE. 100
BEAVERTON, OREGON 97008
TEL: (503) 746-8812
FAX: (503) 639-9592
www.emeriodesign.com

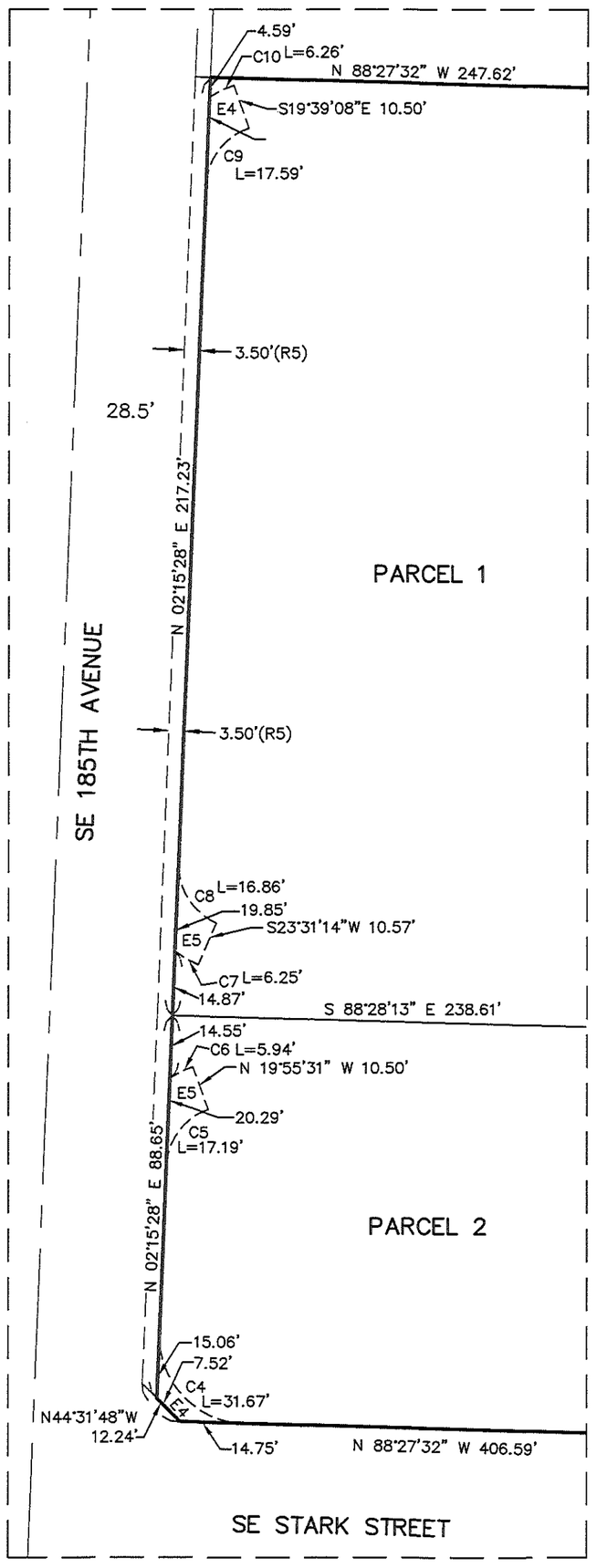
JOB NO. 203-007

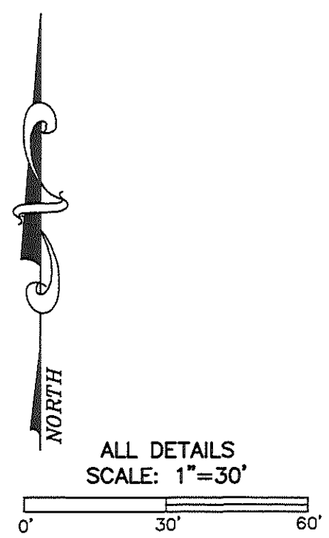
SHEET 1 OF 3

PARTITION PLAT NO. 2019-53

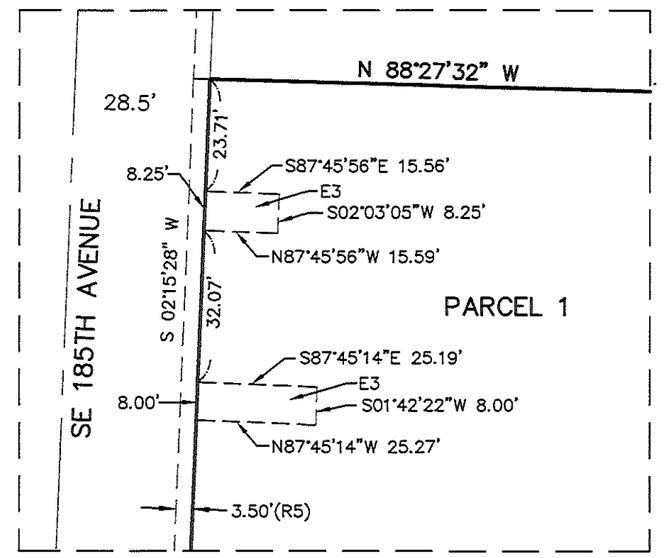
A REPLAT OF A PORTION OF
PARCEL 2, PARTITION PLAT NO. 2018-9
LOCATED IN THE
S.W. 1/4 OF SECTION 32, T.1N., R.3E., W.M.
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019





CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C4	31.67	20.00	90°43'02"	S43°06'01"E	28.46
C5	17.19	14.86	66°17'23"	S36°30'22"W	16.25
C6	5.94	25.00	13°36'22"	S63°16'18"W	5.92
C7	6.25	25.00	14°19'20"	S59°11'39"E	6.23
C8	16.86	14.92	64°43'24"	S33°22'41"E	15.97
C9	17.59	14.50	69°29'37"	S36°58'52"W	16.53
C10	6.26	25.00	14°20'41"	S63°57'46"W	6.24



REGISTERED
PROFESSIONAL
LAND SURVEYOR

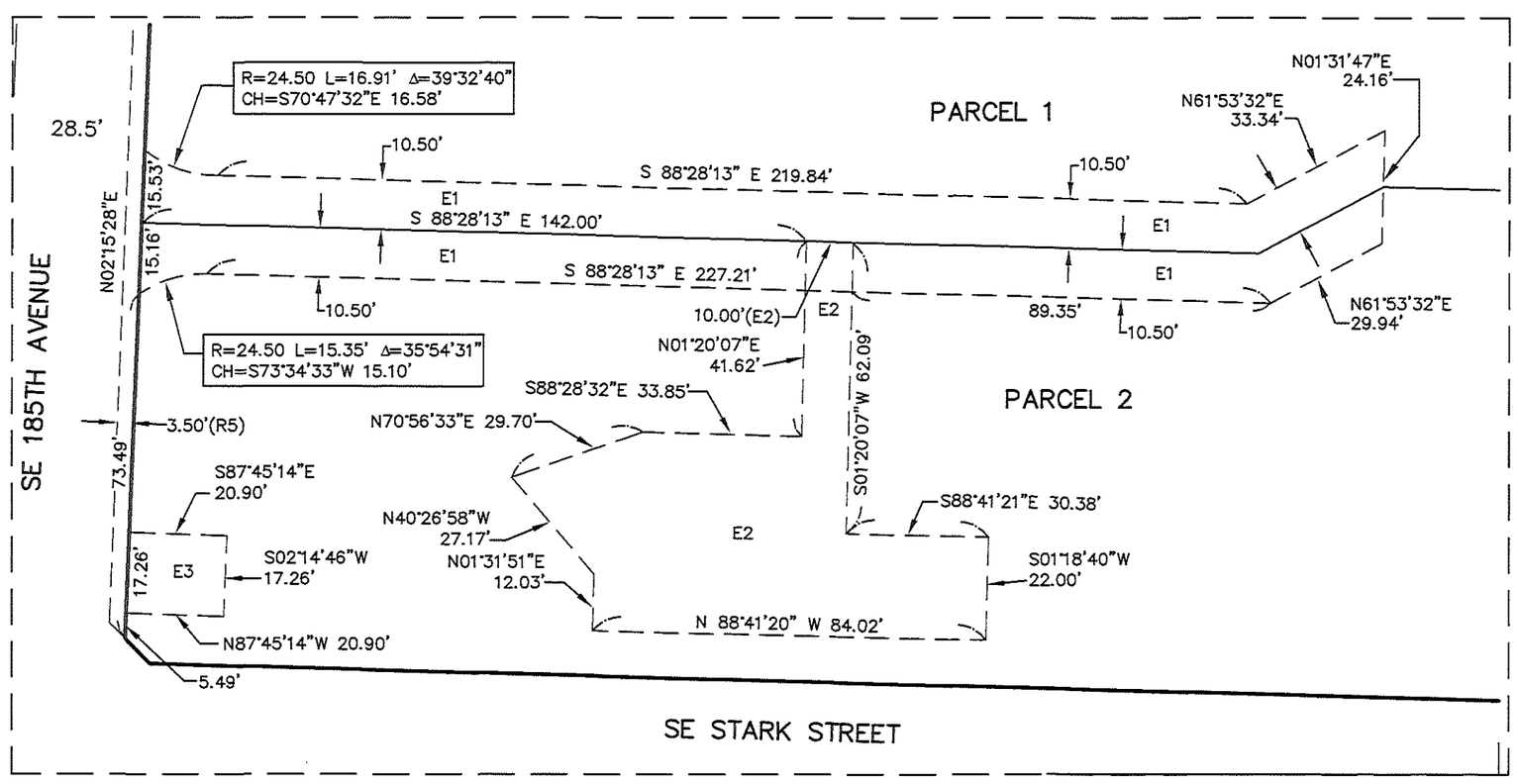
OREGON
JANUARY 15, 1987
JON T. FEIGION
2252

EXPIRES 12-31-19

I HEREBY CERTIFY THAT THIS A TRUE AND EXACT COPY OF THE ORIGINAL PARTITION PLAT.

EASEMENT LEGEND

E1 PRIVATE SANITARY SEWER, PRIVATE STORM SEWER AND JOINT ACCESS EASEMENT TO BENEFIT PARCELS 1 AND 2 CREATED ON PLAT
E2 PRIVATE STORM WATER EASEMENT TO BENEFIT PARCEL 1 CREATED ON PLAT
E3 PUBLIC WATER EASEMENTS TO BENEFIT ROCKWOOD WATER PUD CREATED ON PLAT
E4 PUBLIC STREET LIGHTING FACILITIES AND PUBLIC SIDEWALK EASEMENTS PER DOCUMENT NO. 2019-018066
E5 PUBLIC SIDEWALK EASEMENTS CREATED ON PLAT



EMERIO Design
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FAX: (503) 639-9592
www.emeriodesign.com

JOB NO. 203-007

SHEET 2 OF 3

PARTITION PLAT NO. 2019-53

A REPLAT OF A PORTION OF
PARCEL 2, PARTITION PLAT NO. 2018-9
LOCATED IN THE
S.W. 1/4 OF SECTION 32, T.1N., R.3E., W.M.
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019

SURVEYOR'S CERTIFICATE

I, JON T. FEIGION, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THE ATTACHED PARTITION PLAT MAP, BEING DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 2 OF PARTITION PLAT NO. 2018-9, MULTNOMAH COUNTY PLAT RECORDS LOCATED IN THE S.W. 1/4 OF SECTION 32, T.1N., R.3E., WILLAMETTE MERIDIAN, CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT WHERE I FOUND A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "DEA INC." FOUND AT THE NORTHEAST CORNER OF SAID PARCEL 2, PARITION PLAT NO. 2018-9, BEING ON THE WESTERLY RIGHT OF WAY LINE OF S.E. 187TH AVENUE (42.00 FEET FROM CENTERLINE); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE 98.84 FEET ON THE ARC OF A 293.99 FOOT RADIUS CURVE CONCAVE TO THE EAST (THE RADIUS POINT BEARS SOUTH 69°43'52" EAST) THROUGH A CENTRAL ANGLE OF 19°50'50" (THE CHORD BEARS SOUTH 10°38'13" WEST, 98.38 FEET); THENCE CONTINUING ALONG SAID WESTERLY RIGHT OF WAY LINE, SOUTH 01°00'18" WEST, 85.22 FEET TO A POINT OF CURVATURE; THENCE 44.70 FEET ALONG THE ARC OF A NONTANGENT 27.50 FOOT RADIUS CURVE TO THE LEFT (THE RADIUS POINT BEARS SOUTH 04°08'08" WEST) THROUGH A CENTRAL ANGLE OF 93°07'36" (THE CHORD BEARS SOUTH 47°34'20"WEST, 39.94 FEET); THENCE S01°00'18"W 13.12 FEET TO THE NORTH RIGHT OF WAY LINE OF S.E. STARK STREET (45.00 FEET FROM CENTERLINE); THENCE ALONG SAID NORTH RIGHT OF WAY LINE, NORTH 88°27'32" WEST, 406.54 FEET;

THENCE NORTH 44°45'28" WEST, 7.52 FEET TO THE EAST RIGHT OF WAY LINE OF S.E. 185TH AVENUE (28.50 FEET FROM CENTERLINE); THENCE ALONG SAID EAST RIGHT OF WAY LINE, NORTH 02°15'28" EAST, 305.87 FEET TO THE NORTH LINE OF SAID PARCEL 2; THENCE ALONG SAID NORTH LINE, SOUTH 88°27'32" EAST, 244.12 FEET TO A POINT OF CURVATURE; THENCE 15.71 FEET ON THE ARC OF A 10.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 89°59'59" (THE CHORD BEARS SOUTH 43°27'32" EAST, 14.14 FEET; THENCE CONTINUE ALONG THE NORTHERLY LINE OF SAID PARCEL 2 THE FOLLOWING COURSES; SOUTH 01°32'27" WEST, 22.50 FEET; SOUTH 88°27'32" EAST, 9.17 FEET; SOUTH 01°32'28" EAST, 55.33 FEET; SOUTH 88°27'32" EAST, 188.23 FEET TO THE INITIAL POINT.

CONTAINING 120,247 SQUARE FEET, MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Jon T. Feigion

OREGON
JANUARY 15, 1987
JON T. FEIGION
2252

EXPIRES 12-31-19

I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE ORIGINAL PARTITION PLAT.

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT GRESHAM REDEVELOPMENT COMMISSION, A POLITICAL SUBDIVISION OF THE STATE OF OREGON IS THE OWNER OF THE LAND DESCRIBED IN THE ATTACHED SURVEYOR'S CERTIFICATE AND AS SHOWN ON THE ANNEXED MAP, AND HAS CAUSED THE PARTITION PLAT TO BE PREPARED AND THE PROPERTY TO BE PARTITIONED IN ACCORDANCE WITH THE PROVISIONS OF O.R.S. CHAPTER 92 AND DOES HEREBY GRANT THE EASEMENTS AS SHOWN AND NOTED HEREON.

JOSH FUHRER
EXECUTIVE DIRECTOR
GRESHAM REDEVELOPMENT COMMISSION

ACKNOWLEDGEMENT

STATE OF OREGON)
)SS
COUNTY OF MULTNOMAH)

BE IT REMEMBERED THAT ON THIS 12 DAY OF September, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, PERSONALLY APPEARED JOSH FUHRER, EXECUTIVE DIRECTOR, GRESHAM REDEVELOPMENT COMMISSION WHO BEING DULY SWORN, DID SAY THAT HE IS THE IDENTICAL PERSON NAMED IN THE FOREGOING INSTRUMENT AND THAT HE EXECUTED SAID INSTRUMENT FREELY AND VOLUNTARILY ON BEHALF OF SAID COMMISSION.

NOTARY SIGNATURE

Zachary Tyler Taylor
NOTARY PUBLIC - OREGON

COMMISSION NO. 971627

MY COMMISSION EXPIRES: March 9, 2022

PLAT NOTES

1) THIS PARTITION PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF GRESHAM IN FILE NUMBER MP 19-26000050.

2) THE PRIVATE ACCESS AND PRIVATE STORMWATER, WASTEWATER, AND WATER UTILITY EASEMENTS SHOWN ON THIS PLAT ARE PERPETUAL AND EXCLUSIVE, AND SHALL BE MAINTAINED BY THE BENEFITING LOTS.

3) PUBLIC EASEMENTS (EXCEPT FOR THE PUBLIC WATER EASEMENT) AND PUBLIC RIGHTS-OF-WAY ARE UNDER CITY OF GRESHAM JURISDICTION. THE PUBLIC WATER EASEMENT IS UNDER ROCKWOOD WATER PUD'S JURISDICTION.

4) THIS PARTITION PLAT IS SUBJECT TO LANDSCAPE MAINTENANCE EASEMENT RECORDED AS DOCUMENT NO. 2018-046715, MULTNOMAH COUNTY DEED RECORDS.

CITY OF GRESHAM APPROVALS

APPROVED THIS 1st DAY OF OCTOBER, 2019

URBAN DESIGN AND PLANNING DIRECTOR OR DELEGATE,
CITY OF GRESHAM

APPROVED THIS 27TH DAY OF SEPTEMBER, 2019

DEVELOPMENT ENGINEERING MANAGER OR DELEGATE,
CITY OF GRESHAM

MULTNOMAH COUNTY APPROVALS

APPROVED THIS 3rd DAY OF OCTOBER, 2019

COUNTY SURVEYOR, MULTNOMAH COUNTY, OREGON

BY: _____

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY O.R.S. 92.095

HAVE BEEN PAID AS OF: 07 October, 2019.

DIRECTOR
DIVISION OF ASSESSMENT AND TAXATION
MULTNOMAH COUNTY, OREGON

BY: Lina Moron
DEPUTY

STATE OF OREGON)
) SS
COUNTY OF MULTNOMAH)

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECEIVED FOR RECORD AND RECORDED

Oct 7, 2019 AT
12:08 O'CLOCK P M.

AS PARTITION PLAT NO. 2019-53
COUNTY RECORDING OFFICE

BY: _____
DEPUTY

DOCUMENT NO. 2019-107204

EMERIO Design
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FAX: (503) 639-9592
www.emeriodesign.com

JOB NO. 203-007

SHEET 3 OF 3

EXHIBIT C

Phase II Land Use Approval

(see attached)

CITY OF GRESHAM
Urban Design & Planning
1333 NW Eastman Parkway
Gresham, OR 97030

Final Conditions of Approval

Project: Downtown Rockwood **File No.: DRE/VAR/SUR/TR 16-26000409**

GENERAL CONDITIONS

1. This approval is valid for one year from the date of decision (the end of the appeal period). An application for a building permit must be submitted within one year of this decision (per Section 11.0105). An extension, as permitted under Section 11.0106, is possible. Any changes to the plans must comply with the Gresham Development Code, City of Gresham Public Works Standards, the Building Code and Uniform Fire Code. Changes to the plans that require a discretionary decision will be reviewed, at minimum, as a Type II procedure, except changes that affect standards under Sections 7.0103, 7.0503 and 7.0603, which will be reviewed under a Type III procedure.
2. The applicant shall provide adequate public facilities and services including access, drainage, water and sanitary sewer, per all applicable sections of Appendix 5 of the Community Development Code and 2006 Public Works Standards.

PRIOR TO BUILDING PERMIT

3. The applicant shall schedule a pre-design meeting with Colin Stout, Development Engineering Specialist, at 503-618-2635 prior to construction plan submittal to discuss permit processes, technical requirements, design and construction schedules, and plan review processes.
4. Prior to building permit issuance, the “owner” shall enter into and record a Landscape Maintenance Agreement as approved by the City. The specific requirements of the agreement are also found in subsection 7.0103(A)(5)(d)(13)(c). The project planner will provide the Landscape Maintenance Agreement template upon request.

WITH BUILDING PERMIT

5. The applicant will be required to submit a final stormwater management report with the permit application.
6. The site is more than one acre; therefore, an NPDES 1200-C permit is required. Erosion and sedimentation control shall comply with the Erosion Prevention & Sediment Control Manual, January 2006.
7. Overhead utility lines shall be undergrounded along the frontage of SE Stark Street where warranted per Section A5.510 of the GCDC.

8. The applicant will enter into a water quality maintenance agreement with the City to ensure the implementation of a maintenance plan for the private stormwater facilities at the time of building permit submittal.
9. Any unused wastewater sewer laterals will be abandoned at the main.
10. SE 185th Avenue is classified as a Local Commercial Street. To meet City of Gresham standards, an additional 3 feet must be dedicated along the SE 185th Avenue frontage. The current pavement width to centerline is 19 feet, which is more than the City standard for a Local Commercial street of 18 feet. The developer must dedicate an additional foot of right of way or rebuild the curb a foot closer to the centerline.
11. The **long chord** will need to be dedicated for street intersections based on a 20-foot curb return radius.
12. Sidewalks and ADA ramps will need to be upgraded to meet current standards. If a sidewalk is to remain in place, the cross-slope standard shall be no greater than 2 percent. The ADA ramps will need to be upgraded. The standard requires two ramps at each corner.
13. Installation of a signal conduit is required along the SE 185th Avenue frontage.
14. Streetlights will need to be installed at various locations in the public right of way as identified during the pre-design meeting with Development Engineering.
15. Provide fire flow per Oregon Fire Code Appendix B. Verify fire flow requirements with the Gresham Fire Department. ***OFC App B Table B105.1. (Please reference May 6, 2016 Fire Access Strategy Plan)***
16. Temporary addresses of 6 inches shall be provided at EACH construction entrance prior to ANY construction materials arriving on site***.*** Prior to the building finals a 10-inch permanent address range placard will be required high on the building, facing the address street, per Gresham Fire Addressing Policy. Please contact Kyle Stuart at Kyle.Stuart@GreshamOregon.gov to have the policy emailed to the applicant. ***OFC 505 & 3310***
17. Required fire hydrants and access road shall be installed and approved PRIOR to any combustible construction material arriving on site. ***OFC 3312.1 (Reference May 6, 2016 Fire Access Strategy Plan with the addition of a new hydrant on the south side of east bound Burnside, north side of development)***
18. Without knowing the building construction types or sizes, a PUBLIC fire hydrant is required to be within 250 feet of the main entrance driveway. The furthest point on each building shall be no more than 400 feet from a hydrant. Private fire hydrants shall be installed along the entire length of the fire access road with spacing no more than 450 feet apart. Show on the building plans where the nearest existing and new hydrants are located. ***OFC Appendix C and 507 (Gresham Fire will accept the "Fire Access Strategy" dated May 6, 2016)***
19. Each public or private fire hydrant used for fire flow for this property shall have a 5-inch **Storz** adapter with National Standard Threads installed on the 4½-inch fire hydrant outlet. The adapter shall be constructed of high-strength aluminum alloy, have a Teflon coating on

the seat and threads, and use a rubber gasket and two (2) set screws to secure it in place. The adapter shall be provided with an aluminum alloy pressure cap. The cap shall be attached to the hydrant barrel or Storz adapter with a cable to prevent theft of the cap. Adapter shall be Harrington HPHA50-45NHWCAP or equal approved by Gresham Fire.

20. Fire hydrant locations shall be identified by the installation of reflective markers. The markers shall be BLUE. They shall be located adjacent and to the side of the centerline of the access road way on which the fire hydrant is located. In the case that there is no center line, assume a centerline and place the marker accordingly. ***OFC 508.5.4***

21. All Fire Department access roads shall be drawn to scale and shown clearly on plans. The access roads shall be constructed and maintained prior to and during construction. The minimum width is required to be 26 feet due to the building height being over 30 feet. ***OFC 503.2.1 & D103.1 (Please reference Fire Access Strategy from May 6, 2016 as this plan is the agreed upon plan. Please provide details on tree spacing and at maturity tree canopy to allow access to the areas designated Aerial Apparatus Access)***

22. At least one of the required aerial fire access roads shall be located a minimum of 15 feet and a maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. This will be required to be approved by the fire code official. ***OFC App D-105.3***

23. Required Fire Department access roads on site shall be designed to support an apparatus weighing **75,000-pound** gross vehicle weight. Provide an engineer's letter stating the access road meets those requirements at the time of building permit submittal. ***OFC, Appendix D, Section D102.1***

24. The turning radius for all emergency apparatus roads shall be: 28 feet inside and 48 feet outside radius. ***OFC 503.2.4 (If using pavers or means the edges of the access fire lanes shall be delineated. The clear height for non-aerial access roads is 13 feet - 6 inches)***

25. No Parking Fire Lane signage or curb marking will be required. Fire access roads 20 feet to 26 feet wide require the marking on both sides. Indicate on the building permit plans. ***OFC D 103.6***

26. The buildings are required to be provided with fire sprinklers throughout. ***OFC 903.2.9***

27. A fire alarm system is required. ***OFC 907, 903.4***

28. Recycling and Solid Waste

    a. Building A: Provide an 8-foot wide roll-up door for access to the trash enclosure room.

    b. Building A: Sidewalk curb-cuts shall be provided on the SE Stark Street frontage to provide service from the building's enclosure to the street.

    c. Building B: Provide space for a 2-yard container for commercial food generators.

    d. Building B: Provide space for an additional 2-yard container for back-up to the trash compactor in the enclosure room.

e. Building B: Provide the widest roll-up door possible, within the parameters of the structure, to provide ease of access to this space.

f. Building B: Sidewalk curb-cuts on the private internal drive shall be required in order to service the enclosure from the internal drive.

g. Building C: The enclosure shall provide space for cardboard containers.

h. Building C: Provide additional access to the recycling side of the enclosure by providing an additional sliding gate, or through another means as approved by the Manager.

29. Site Design

a. The use of full cut-off lighting fixtures is required to avoid off-site lighting, night sky pollution, and shining lights into residential units.

b. The maximum permitted height of light fixtures in all areas of the site shall be 25 feet as measured from finished grade.

c. Site furnishing shall be constructed with 20 percent sustainably harvested materials or locally sourced materials (originating from within 500 miles of the site). A letter from the applicant shall be submitted at building permit verifying compliance.

d. The project shall provide a minimum of 20 percent recycled content pavement or pavement base for hardscape elements such as sidewalks, paths, parking areas, and courtyards. Documentation of the recycled content amount shall be provided.

e. Trees planted on primary internal drives shall be of a size no smaller than 3-inch caliper at the time of planting.

f. Shrubs planted along the E Burnside Street frontage, adjacent to the parking lot, shall be a minimum height of 42 to 48 inches at the time of planting, with occasional breaks in the shrub hedge to allow for passive observation by pedestrians in the public right of way.

g. Prior to submittal of building permit, the applicant shall work with staff to further refine the design of the central plaza and corner plazas with the goal of clarifying and refining the plaza elements, including but not limited to street furniture, paving materials, landscaping materials, and artistic elements. Approval of the final design shall be at the discretion of the Manager.

h. Prior to submittal of building permit, the applicant shall work with staff to adjust the parking lot design, including parking stall and drive aisle dimensions as well as interior landscaping in order to bring the parking lot layout into conformance with Code standards pursuant to Section 9.0800. Approval of the final design shall be at the discretion of the Manager.

30. Building Design

a. The applicant shall provide wall-mounted, vertical bike racks in each dwelling unit in order to provide supported bicycle parking in each unit.

b. The primary residential entry on the west side of Building B shall be emphasized to be more prominent; and the north-south connection from the woonerf to E Burnside Street shall be given more design prominence. Approval of the final design shall be at the discretion of the Manager.

c. All buildings shall include a light-colored roof with a solar reflective index (SRI) of 78 or higher.

31. The applicant, with assistance from the Gresham Redevelopment Commission, shall establish an ad hoc art review committee comprised of community stakeholders to review murals to be placed on the exterior of buildings prior to installation for compliance with the Exterior Art and Tenant Customization Plan, with the goal of determining appropriateness of location, size, materials, and pattern.

32. Prior to installation of any mural on the exterior of a building, the tenant or mural applicant shall provide written confirmation of approval from the art review committee and a depiction of the proposed mural, including the proposed location and size of the mural, to the Manager for verification of compliance with all development code provisions. In no instance shall installation of a mural reduce the amount of transparent glazing on the exterior of a building, without Manager approval.

PRIOR TO OCCUPANCY

33. Installation of landscaping and irrigation system shall be provided prior to temporary building occupancy unless an appropriate financial guarantee (such as a cash deposit or surety bond) is provided at a 110 percent value to insure said installation. Installation of landscaping and irrigation system shall be provided prior to any final occupancy.

EXHIBIT D

Debt Service Coverage Ratio

(see attached)

ANNUAL DEBT COVERAGE RATIO

1.	Adjusted Net Operating Income (NOI)***	_____
2.	Capital Expenditures	_____
3.	Reserve Payments (Other than Tax and Insurance) ****	_____
4.	Operating Reserve*****	_____
5.	Principal Payments	_____
6.	Mortgage Interest Payments	_____
7.	Debt Coverage Ratio (1-2-3-4)/(5+6)	[ ]

*** NOI is Operating Income less Operating Expenses, excluding mortgage interest, depreciation and amortization. This DOES include the current year land lease payment.

**** Taxes and Insurance will be treated on an accrual basis and recognized in the month they were incurred. Therefore, do not adjust for reserve payments or cash payments.

***** The Operating Reserve will be equal to one month averaging operating expenses from the trailing 12 months excluding mortgage interest, or one month mortgage interest, which ever is the smaller amount.

If the annual DCR is below 1.0, then the annual land lease payment will be reduced by the amount required to bring the DCR up to 1.0. The annual land lease payment is not cumulative; i.e. reductions in lease payment are not caught up in future years.

EXHIBIT E

Permitted Exceptions

(see attached)

AS OF THE DATE OF THIS REPORT, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN THE POLICY FORM WOULD BE AS FOLLOWS:

GENERAL EXCEPTIONS:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.

2. Any facts, rights, interests or claims, which are not shown by the Public Records but which could be ascertained by an inspection of the Land or which may be asserted by persons in possession thereof.

3. Easements, or claims thereof, which are not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.

4. Any encroachment, encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.

5. Any lien, or right to a lien, for services, labor, material or equipment rental, or for contributions due to the State of Oregon for unemployment compensation or worker's compensation, heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

SPECIFIC ITEMS AND EXCEPTIONS:

6. Property taxes in an undetermined amount, which are a lien but not yet payable, including any assessments collected with taxes to be levied for the fiscal year 2020-2021.

   New Account Number for Parcel 1 Partition Plat 2019-53: R702297 1N3E32CC-07906

7. The subject property is under public, charitable, fraternal, or religious organization ownership and is exempt from ad valorem taxation. Any change in ownership prior to delivery of the assessment roll may result in tax liability.
   Tax Account No.: R702297 (Parent Parcel)
   Map No.: 1N3E32CC-07906

8. City Liens, if any, in favor of the City of Gresham. An inquiry has been directed to the City Clerk concerning the status of said liens and a report will follow if such liens are found.

9. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat
   Name of Plat: Partition Plat No. 2015-97

10. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
    Granted to: City of Gresham, a municipal corporation of the State of Oregon
    Purpose: Public pedestrian access and use of sidewalk
    Recording Date: March 6, 2018
    Recording No: 2018-024571

11. Landscape Maintenance Easement, including the terms and provisions thereof
Recording Date: May 2, 2018
Recording No.: 2018-046715-also recited on Partition Plat No. 2019-53

12. Memorandum of a Land Development Agreement
Executed by: Gresham Redevelopment Commission, a public body and Rockwood Rising, LLC, an Oregon limited liability company
Recording Date: July 11, 2018
Recording No.: 2018-072831

Memorandum of Amendment No. One
Recording Date: May 10, 2019
Recording No: 2019-047016

Memorandum of Amendment No. Two
Recording Date: May 10, 2019
Recording No: 2019-047017

13. Decomissioning Waiver, including the terms and provisions thereof
Executed by: City of Portland and Bureau of Development Services Site Development and Gresham Redevelopment Commission
Recording Date: January 7, 2019
Recording No.: 2019-001696

and Re-Recording Date: January 8, 2019
and Re-Recording No: 2019-002085

14. Operations & Maintenance Agreement for Stormwater Management Facilities, including the terms and provisions thereof
Recording Date: February 13, 2019
Recording No.: 2019-016185

15. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Granted to: City of Gresham, a municipal corporation of the State of Oregon
Purpose: Public street lighting facilities and public sidewalk
Recording Date: February 20, 2019
Recording No: 2019-018066
Affects: Northwest corner also delineated on Partition Plat No. 2019-53

16. A Ground Lease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document;
Entitled: Memorandum of Ground Lease
Lessor: Gresham Redevelopment Commission
Lessee: Rockwood Rising Management, LLC, an Oregon limited liability company
Recording Date: May 10, 2019
Recording No: 2019-047018
(Affects a leasehold estate, covering other property also)

Said lease was subordinated to the lien of the Deed of Trust, shown in exception next below bu instrument:
Recording Date: May 10, 2019
Recording No.: 2019-047027

17. A Leasehold deed of trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, to secure an indebtedness in the amount shown below,
Amount: $11,168,500.00
Dated: May 10, 2019
Trustor/Grantor: Rockwood Rising Management, LLC
Trustee: Chicago Title Company
Beneficiary: Northwest Bank
Recording Date: May 10, 2019
Recording No.: 2019-047024
(Affects a leasehold estate, covering other property also)

The Deed of Trust set forth above is purported to be a "Credit Line" Deed of Trust. It is a requirement that the Trustor/Grantor of said Deed of Trust provide written authorization to close said credit line account to the Lender when the Deed of Trust is being paid off through the Company or other Settlement/Escrow Agent or provide a satisfactory subordination of this Deed of Trust to the proposed Deed of Trust to be recorded at closing.

18. Consent, Subordination, non-disturbance and attornment Agreement including the terms and provisions thereof;
Recording Date: May 10, 2019
Recording No: 2019-047027
Between: Gresham Redevelopment Commission, Rockwood Rising Management, LLC, an Oregon limited liability company and Rockwood Rising, LLC, an Oregon limited liability company, Northwest Bank, an Idaho Corporation, Rose Urban Green Sub-CDE XVII, LLC, a Delaware limited liability company and COCRF Sub-CDE 52, LLC, Delaware limited liability company and URP Subsidiary CDE 35, LLC, a Maryland liability company

19. A Sub-Ground Lease, including the terms and provisions thereof;
Dated: May 10, 2019
A memorandum of which was recorded:
Lessor: Rockwood Rising Management, LLC, an Oregon limited liability company
Lessee: Rockwood Rising, LLC, an Oregon limited liability company
Recording Date: May 10, 2019
Recording No: 2019-047020
(Affects a leasehold estate, covering other property also)

Note: By the terms of the Sub-Ground Lease, the term of the lease affecting the subject property herein has exired and this exception is set forth for informational purposes only, and will be removed from a final title policy.

20. A Leasehold deed of trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, to secure an indebtedness in the amount shown below,
Amount: $17,840,000.00
Dated: May 10, 2019
Trustor/Grantor: Rockwood Rising, LLC, an Oregon limited liability company
Trustee: Chicago Title Company
Beneficiary: Rose Urban Green Sub-CDE XVII, LLC, a Delaware limited liability company, COCRF SUBCDE 82, LLC, a Delaware limited liability company, URP Subsidiary CDE 35, LLC, a Maryland limited liability company
Recording Date: May 10, 2019
Recording No.: 2019-047025
(Affects a leasehold estate, covering other property also)

Note: By the terms of the Sub-Ground Lease and the estate described therein, the term of the lease affecting the subject property herein has expired and this exception is set forth for informational purposes only, and will be removed from a final title policy.

The Deed of Trust set forth above is purported to be a "Credit Line" Deed of Trust. It is a requirement that the Trustor/Grantor of said Deed of Trust provide written authorization to close said credit line account to the Lender when the Deed of Trust is being paid off through the Company or other Settlement/Escrow Agent or provide a satisfactory subordination of this Deed of Trust to the proposed Deed of Trust to be recorded at closing.

21. An unrecorded Sub Sublease with certain terms, covenants, conditions and provisions set forth therein as disclosed by the document
Entitled: Memorandum of sublease (Operating lease)
Lessor: Rockwood Rising, LLC, an Oregon limited liability company
Lessee: Rockwood Rising Management, LLC, an Oregon limited liability company
Recording Date: May 10, 2019
Recording No: 2019-047022

Note: By the terms of the Sub-SubLease, the term of the lease affecting the subject property herein has expired and this exception is set forth for informational purposes only, and will be removed from a final title policy.

22. Restrictions, but omitting restrictions, if any, based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said restriction is permitted by applicable law, as shown on that certain plat
Name of Plat: Partition Plat No. 2019-53
Recording Date: October 7, 2019
Recording No: 2019-107204

23. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;
Purpose: Public water easement to benefit Rockwood Water PUD
Affects: West portion as delineated on plat

24. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;
Purpose: Public sidewalk
Affects: Southwesterly portion as delineated on plat

25. Easement(s) for the purpose(s) shown below and rights incidental thereto as delineated or as offered for dedication, on the map of said tract/plat;
Purpose: Private sanitary sewer, private storm sewer and joint access to benefit Parcels 1 and 2
Affects: Southerly portion as delineated on plat

26. Terms, provisions and conditions, including, but not limited to, maintenance provisions for private access, private stormwater, waste water and water utility easements as recited on Partition Plat No. 2019-53
Recording Date: October 7, 2019
Recording No.: 2019-107204

27. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Granted to: Portland General Electric Company, an Oregon corporation
Purpose: Utilities
Recording Date: April 9, 2020
Recording No: 2020-042705
Affects: Reference is hereby made to said document for full particulars

28. Operations & Maintenance Agreement for Stormwater Management Facilities including the terms and provisions thereof,
Recording Date: July 8, 2020
Recording No: 2020-082777
Between: Gresham Redevelopment Commission, Owner and Rockwood Rising Management, LLC, Tenant and City of Gresham

29. Existing leases and tenancies, if any, other than those shown in exceptions above, and any interests that may appear upon examination of such leases.

30. The following matters relative to the leasehold estate to be insured (*Lessee identified as: Rockwood Market Hall, LLC, an Oregon limited liability company*);

a) The Company will require a full copy of the lease to be insured, together with all supplements, assignments and amendments for review. If a memorandum or short form of the lease is to be recorded, a full copy of the executed lease is still required.

b) Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by making inquiry of the lessors and their successors interest in the lease described or referred to in this report.

c) Proof that there are no parties in possession, or claiming to be in possession, other than the vestees shown herein.

The Company reserves the right to add additional items or make further requirements after review of the requested documentation.

31. If requested to issue an extended coverage ALTA loan policy, the following matters must be addressed:
a) Matters disclosed by a statement as to parties in possession and as to any construction, alterations or repairs to the Land within the last 75 days. The Company must be notified in the event that any funds are to be used for construction, alterations or repairs.
b) Any facts which would be disclosed by an accurate survey of the Land

32. Note: We find no Notice of Completion recorded on said Land.

EXHIBIT F

Method of Calculating Purchase Option

The purchase price for purposes of Tenant's Purchase Option described in Article 27 shall be equal to the present value of all future annual Rent payments that would become due during the unexpired portion of the Initial Term (or if Tenant's election to exercise the Purchase Option is delivered during the First Extension Term or the Second Extension Term, the present value of all future annual Rent payments that would become due during the unexpired portion of such Extension Term), calculated as set forth in this Exhibit F. For purposes of such calculation, the stream of future annual Rent payments for the remainder of the Initial Term or Extension Term, as applicable, shall be estimated based on the most recent annual Rent amount then in effect, with an estimated future CPI increase factored into each of the remaining years' Rent payments. Such estimated CPI increases shall be based on the average annual increase in the CPI over the twenty-five (25) year period prior to Tenant's exercise of the Purchase Option. The potential reduction of such future annual Rent payments based on the Debt Coverage Ratio cap described in Section 3.l(c) shall be disregarded. The present value shall be calculated by applying a discount rate of four and one-half percent (4.5%) per annum.

A sample calculation of the purchase price, based on hypothetical numbers, is shown in the attached spreadsheet. The sample calculation assumes the following:

Purchase Option exercised in Year 25
Lease years remaining in Initial Term: 35
Annual Rent in effect when Purchase Option is exercised: $214,155
Average annual CPI increase over the 25 years before Purchase Option is exercised: 2.37%

EXHIBIT G

Memorandum of Ground Lease

(see attached)

CITY OF GRESHAM

After Recording return to:
City of Gresham
Titles, Liens & Collections Dept.
1333 NW Eastman Parkway
Gresham, Oregon 97030

MEMORANDUM OF
PHASE II GROUND LEASE

THIS MEMORANDUM OF GROUND LEASE (this "Memorandum"), is dated _____ by and between Gresham Redevelopment Commission, the duly designated urban renewal agency of the City of Gresham, which has an address of 1333 NW Eastman Parkway, Gresham, Oregon 97030 ("Landlord"), and ROCKWOOD MARKET HALL, an Oregon nonprofit corporation, which has an address of 1333 NW Eastman Parkway, Gresham, OR 97030 ("Tenant").

RECITALS

A. Landlord and Tenant entered into that certain Phase II Ground Lease dated _____, (the "Lease") with respect to the real property described as Parcel 1, PARTITION PLAT NO. 2019-53, in the City of Gresham, County of Multnomah and State of Oregon, as described and depicted in the attached Exhibit A (the "Premises").

B. Landlord and Tenant desire to record this Memorandum to put third parties on notice of certain terms contained in the Lease.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Defined Terms**. All capitalized terms not otherwise defined herein have the meaning ascribed in the Lease.

2. **Lease Term**. The Initial Term of the Lease is sixty (60) years. Tenant has two (2) options to extend the Term of the Lease, the first option for an additional twenty (20) years, and the second option for an additional nineteen (19) years.

3. **General**.

(a) This Memorandum must be construed in accordance with the laws of the State of Oregon.

(b) This Memorandum may be executed in several counterparts and all so executed will one agreement binding on all parties hereto, notwithstanding that all the parties have not signed the original or the same counterpart.

(c) This Memorandum may be amended only by a written instrument executed in one or more counterparts by the parties hereto.

4. **Statutory Disclosure**. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 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. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY O 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 VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

[*Signature and acknowledgment pages follow*]

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first set forth above.

LANDLORD:

GRESHAM REDEVELOPMENT COMMISSION,
the duly designated Urban Renewal Agency of the City of Gresham.

By:_____
Emily Bower, Interim Executive Director

STATE OF OREGON)
) ss.
County of Multnomah)

This instrument was acknowledged before me this ___ day of _____, 2020 by Emily Bower, the Interim Executive Director of GRESHAM REDEVELOPMENT COMMISSION, the duly designated Urban Renewal Agency of the City of Gresham.

_____
Notary Public for Oregon
My Commission Expires: _____

TENANT:

ROCKWOOD MARKET HALL,
an Oregon nonprofit corporation

By:_____

Name:_____

Its:_____

STATE OF OREGON)
) ss.
County of _____)

This instrument was acknowledged before me this ___ day of _____, 2020 by_ _____, the _____of ROCKWOOD MARKET HALL, an Oregon nonprofit corporation.

_____
Notary Public for Oregon
My Commission Expires: _____

EXHIBIT A

PREMISES

Parcel 1, PARTITION PLAT NO. 2019-53, in the City of Gresham, County of Multnomah and State of Oregon.

(see attached Partition Plat No. 2019-53)

PARTITION PLAT NO. 2019-53

A REPLAT OF A PORTION OF
PARCEL 2, PARTITION PLAT NO. 2018-9
LOCATED IN THE
S.W. 1/4 OF SECTION 32, T.1N., R.3E., W.M.
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C1	15.71	10.00	89°59'59"	N43°27'32"W	14.14
C1(R1)	15.71	10.00	90°00'01"	N43°27'32"W	14.14
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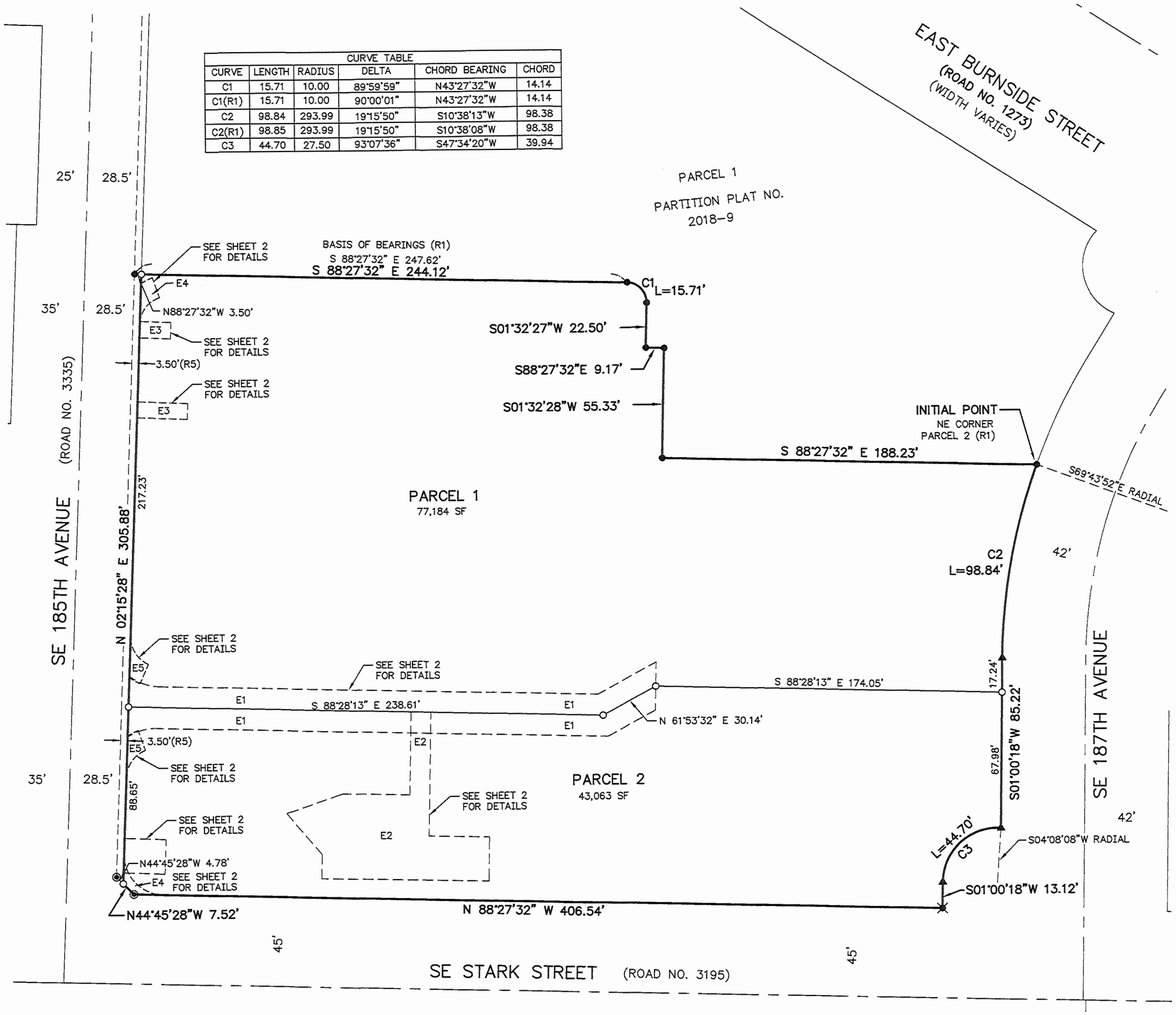
C2(R1)	98.85	293.99	19°15'50"	S10°38'08"W	98.38
C3	44.70	27.50	93°07'36"	S47°34'20"W	39.94



NARRATIVE

THE PURPOSE OF THIS SURVEY IS TO REPLAT AND PARTITION INTO TWO PARCELS ALL OF THAT PROPERTY DESCRIBED AS PARCEL 2 IN PARTITION PLAT NO. 2018-9, MULTNOMAH COUNTY PLAT RECORDS, EXCEPTING THAT PORTION DESCRIBED IN RIGHT OF WAY DEDICATION RECORDED 2-20-19, AS DOCUMENT NO. 2019-018067, MULTNOMAH COUNTY DEED RECORDS..

THE BASIS OF BEARINGS IS THE MOST NORTHERLY BOUNDARY LINE WHICH WAS HELD AS NORTH 88°27'32" WEST PER PARTITION PLAT NO. 2018-9, MULTNOMAH COUNTY PLAT RECORDS.

THE BOUNDARY WAS RESOLVED BY HOLDING ALL EXTERIOR MONUMENTS OF PARCEL 2, OF SAID PARTITION PLAT NO. 2018-9, AND OFFSETTING THE WEST PARCEL LINE EASTERLY 3.50 FEET PER SAID DOCUMENT NO. 2019-018067.

BY HOLDING THE ADJACENT TANGENTS, CURVES 1 AND 2 WERE FOUND TO HAVE SLIGHTLY DIFFERENT CURVE DATA THAN THAT SHOWN ON R1.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 15, 1987
JON T. FEIGION
2252

EXPIRES 12-31-19

I HEREBY CERTIFY THAT THIS A TRUE AND EXACT COPY OF THE ORIGINAL PARTITION PLAT.

REFERENCES

R1 PARTITION PLAT NO. 2018-9
R2 PARTITION PLAT NO. 2015-97
R3 SN 63801
R4 SN 60376
R5 RIGHT-OF-WAY DEDICATION PER DOCUMENT NO. 2019-018067

LEGEND

- ● FOUND 5/8" IR WITH YPC MARKED "DEA INC" SET IN R1
- FOUND 5/8" IR WITH YPC MARKED "MULT CO. SURVEY" SET IN R3
- ▲ FOUND 5/8" IR WITH 2" AC MARKED "MULTNOMAH COUNTY SURVEYOR" PER SN63801 WITH PUNCH MARK SET IN R3
- ◉ FOUND 1" COPPER ALLOY BERNTSEN DISK WITH PUNCH MARK MARKED "MULT. CO SURVEY" SET IN R4
- O SET 5/8" X 30" IRON ROD WITH YPC MARKED "EMERIO DESIGN" SET ON 7-16-19

IR IRON ROD
YPC YELLOW PLASTIC CAP
AC ALUMINUM CAP
SF SQUARE FEET
SN SURVEY NUMBER, MULTNOMAH COUNTY SURVEY RECORDS
R2 REFERENCE NUMBER
DOC. NO. DOCUMENT NUMBER, MULTNOMAH COUNTY DEED RECORDS
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E5 PUBLIC SIDEWALK EASEMENTS CREATED ON PLAT

SHEET INDEX

SHEET 1 PARTITION PLAT NARRATIVE, LAYOUT, PARCEL DIMENSIONS, REFERENCES
SHEET 2 PARTITION PLAT EASEMENT DETAILS
SHEET 3 PARTITION PLAT NOTES, SURVEYOR'S CERTIFICATE, DECLARATION, ACKNOWLEDGEMENTS, APPROVALS

NORTH

SCALE: 1"=40'

0' 40' 80'

EMERIO Design
6445 SW FALLBROOK PLACE, STE. 100
BEAVERTON, OREGON 97008
TEL: (503) 746-8812
FAX: (503) 639-9592
www.emeriodesign.com

JOB NO. 203-007

SHEET 1 OF 3

Attachment B

CITY OF GRESHAM

After Recording return to:
City of Gresham
Titles, Liens & Collections Dept.
1333 NW Eastman Parkway
Gresham, Oregon 97030

AMENDMENT NO. THREE
LAND DEVELOPMENT AGREEMENT FOR ROCKWOOD RISING
Contract No. _____

This Amendment No. Three to the Land Development Agreement for Rockwood Rising is made and entered into this ____ day of August, 2020 by and amongst the Gresham Redevelopment Commission ("GRDC"), Rockwood Rising Management, LLC ("Phase I Developer"), and Rockwood Market Hall ("Phase II Developer"), and amends that Land Development Agreement dated June 19, 2018, as amended by Amendments No. One and No. Two (as amended, the "Agreement"), for the development of the project known as "Rockwood Rising" (the "Project"). A Memorandum of the Agreement is recorded in the Multnomah County Deed Records at 2018-072831. Capitalized terms used herein, but not otherwise defined herein, will have the same meaning given to such terms under the Agreement.

Whereas, Project is located on both (1) Parcel 1, Partition Plat No. 2015-97, City of Gresham, Multnomah County, State of Oregon ("Parcel 1") as to Building D and its site improvements and (2) Parcel 2, Partition Plat No. 2018-9, City of Gresham, Multnomah County, State of Oregon ("Parcel 2") as to Buildings A and C and their site improvements, and

Whereas, Amendment No. One divided the Project into two phases. "Phase I" is the ground lease and development of the property described in Exhibit B-2 attached to Amendment No. One for Building A, the South Parking Area immediately to the west of Building A, and Building D and its adjoining site area east of the reconstructed 187th Avenue. "Phase II" is the ground lease and development of the property described in Exhibit B-4 attached to Amendment No. One for Building C, the Central Parking Area and the Plaza, and

Whereas, Amendment No. One removed portions of Section 16 of the Ground Lease pertaining to the management, operation, and subleasing of retail, restaurant, and other commercial space in Building C in Phase II to subtenants because the development of Phase II was not part of Phase I, and

Whereas, Amendment No. Two conveyed to the Phase I Developer a ground leasehold interest in the entire Project (Parcel 1 and Parcel 2), and stated the intent of the parties to divide Parcel 2 to create a separate parcel for development of Phase II, subsequent to which the Phase I Developer would reconvey the new parcel to GRDC, and

Whereas, subsequent to Amendment No. 2 GRDC caused the division of Parcel 2 pursuant to Partition Plat 2019-53, a copy of which is attached hereto as Exhibit A, and Phase I Developer desires to reconvey its ground leasehold interest in the approximately 77,184 SF area identified in Exhibit A as parcel 1 ("Phase II Property"), and

Whereas, GRDC will lease the Phase II Property to Phase II Developer. The Phase II Developer will contract with RKm Development, Inc. to manage the financing and construction of Phase II consistent with the Agreement, and

Whereas, Phase II Developer will contract with RKm Management, Inc. to manage operation of the developed Phase II Property including sub-subleasing the ground floor of Building C ("Market Hall") to retail and restaurant operators. Phase II Developer will sublease the second and third floors of Building C to RKm Development, Inc., or an affiliate of RKm Development, Inc., and

Whereas, the parties desire to further amend the Agreement to facilitate the financing and construction of Phase II of the Project on or about the date hereof.

Now, therefore, the parties agree to the following amendments to the Agreement:

1. Phase I Developer does hereby grant, release, and reconvey from that certain Ground Lease between the GRDC and Phase I Developer's predecessor in interest Rockwood Rising LLC, dated May 10, 2019 ("Ground Lease"), its entire leasehold estate and interest in the Phase II Property. Phase I Developer shall deliver the Phase II Property consistent with Sections 23.1 and 23.2 of the Ground Lease.

2. GRDC shall convey and Phase II Developer shall accept a leasehold interest in the Phase II Property by entering into an agreement consistent with the form of Ground Lease attached as Exhibit B.

3. Phase I Developer hereby assigns to Phase II Developer, and GRDC consents to such assignment, the rights and obligations as the "Developer" under the Agreement for development of the Phase II Property. Phase II Developer accepts the assignment of the rights and obligations of the Phase I Developer as the "Developer" under the Agreement.

4. The parties hereby expressly agree that the Development Management Fee in Section 5.9 of the LDA is not applicable to the development of the Phase II Property by Phase II Developer or any other entity.

In all other respects, the Agreement, as amended by Amendment No. One and Amendment No. 2, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties enter into this amendment as of the date first set forth above.

GRESHAM REDEVELOPMENT COMMISSION,
the duly designated Urban Renewal Agency
of the City of Gresham.

By: _____
Emily Bower, Interim Executive Director

By: _____
Karylinn Echols, Commission Chair

STATE OF OREGON)
) ss.
County of Multnomah)

Signed and sworn to before me by Emily Bower in her capacity as Interim Executive Director of Gresham Redevelopment Commission on August ____, 2020.

_____
Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
County of Multnomah)

Signed and sworn to before me by Karylinn Echols as Commission Chair of Gresham Redevelopment Commission on August ____, 2020.

_____
Notary Public for Oregon
My commission expires: _____

APPROVED AS TO FORM:

_____
Kevin McConnell, City of Gresham Attorney

ROCKWOOD RISING MANAGEMENT, LLC,
an Oregon limited liability company

By: _____
Roy Kim, Manager

STATE OF OREGON)
) ss.
County of Multnomah)

Signed and sworn to before me by Roy Kim as Manager of Rockwood Rising Management, LLC on August ____, 2020.

_____
Notary Public for Oregon
My commission expires: _____

ROCKWOOD MARKET HALL
an Oregon nonprofit corporation

By: _____

Name: _____

Its: _____

STATE OF OREGON)
) ss.
County of Multnomah)

Signed and sworn to before me by _____ as _____of Rockwood Market Hall on August ____, 2020.

_____
Notary Public for Oregon
My commission expires: _____

EXHIBIT A

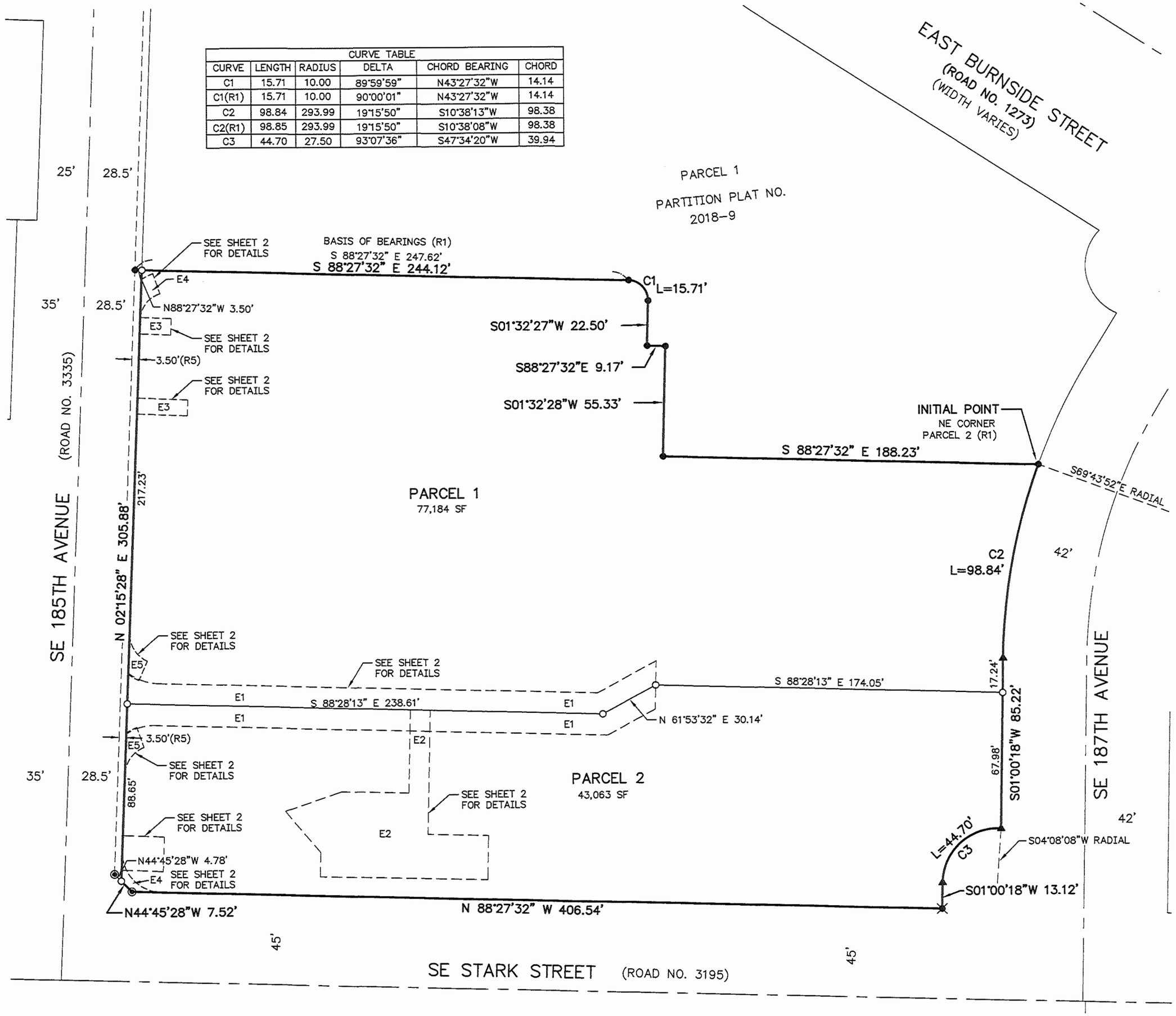
Partition Plat No. 2019-53

(see attached)

PARTITION PLAT NO. 2019-53

A REPLAT OF A PORTION OF
PARCEL 2, PARTITION PLAT NO. 2018-9
LOCATED IN THE
S.W. 1/4 OF SECTION 32, T.1N., R.3E., W.M.
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019



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REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 15, 1987
JON T. FEIGION
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EXPIRES 12-31-19

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R4 SN 60376
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NORTH

SCALE: 1"=40'

0' 40' 80'

EMERIO Design
6445 SW FALLBROOK PLACE, STE. 100
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JOB NO. 203-007

SHEET 1 OF 3

PARTITION PLAT NO. 2019-53

A REPLAT OF A PORTION OF
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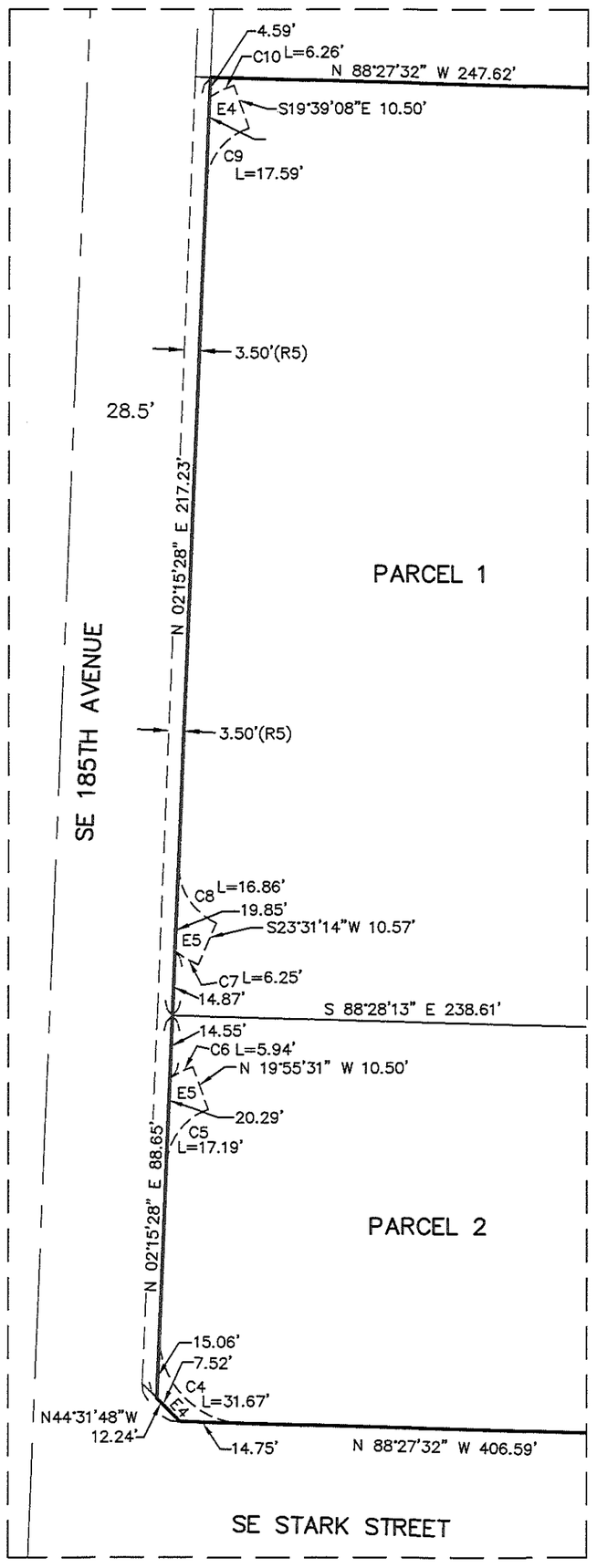
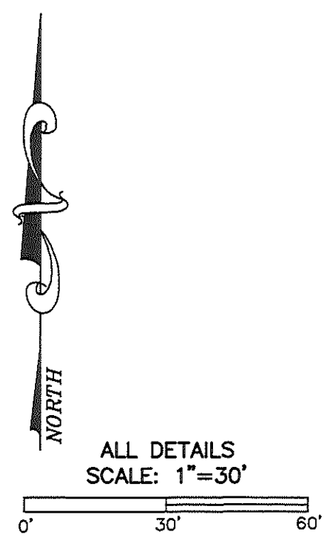
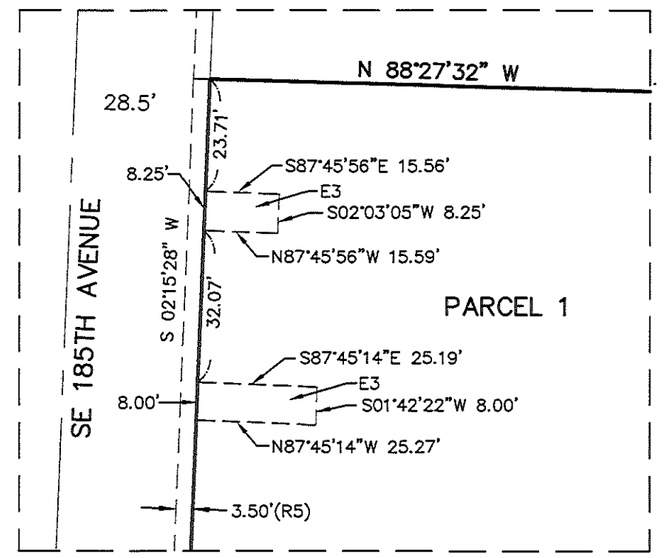
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019





CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD
C4	31.67	20.00	90°43'02"	S43°06'01"E	28.46
C5	17.19	14.86	66°17'23"	S36°30'22"W	16.25
C6	5.94	25.00	13°36'22"	S63°16'18"W	5.92
C7	6.25	25.00	14°19'20"	S59°11'39"E	6.23
C8	16.86	14.92	64°43'24"	S33°22'41"E	15.97
C9	17.59	14.50	69°29'37"	S36°58'52"W	16.53
C10	6.26	25.00	14°20'41"	S63°57'46"W	6.24



REGISTERED
PROFESSIONAL
LAND SURVEYOR

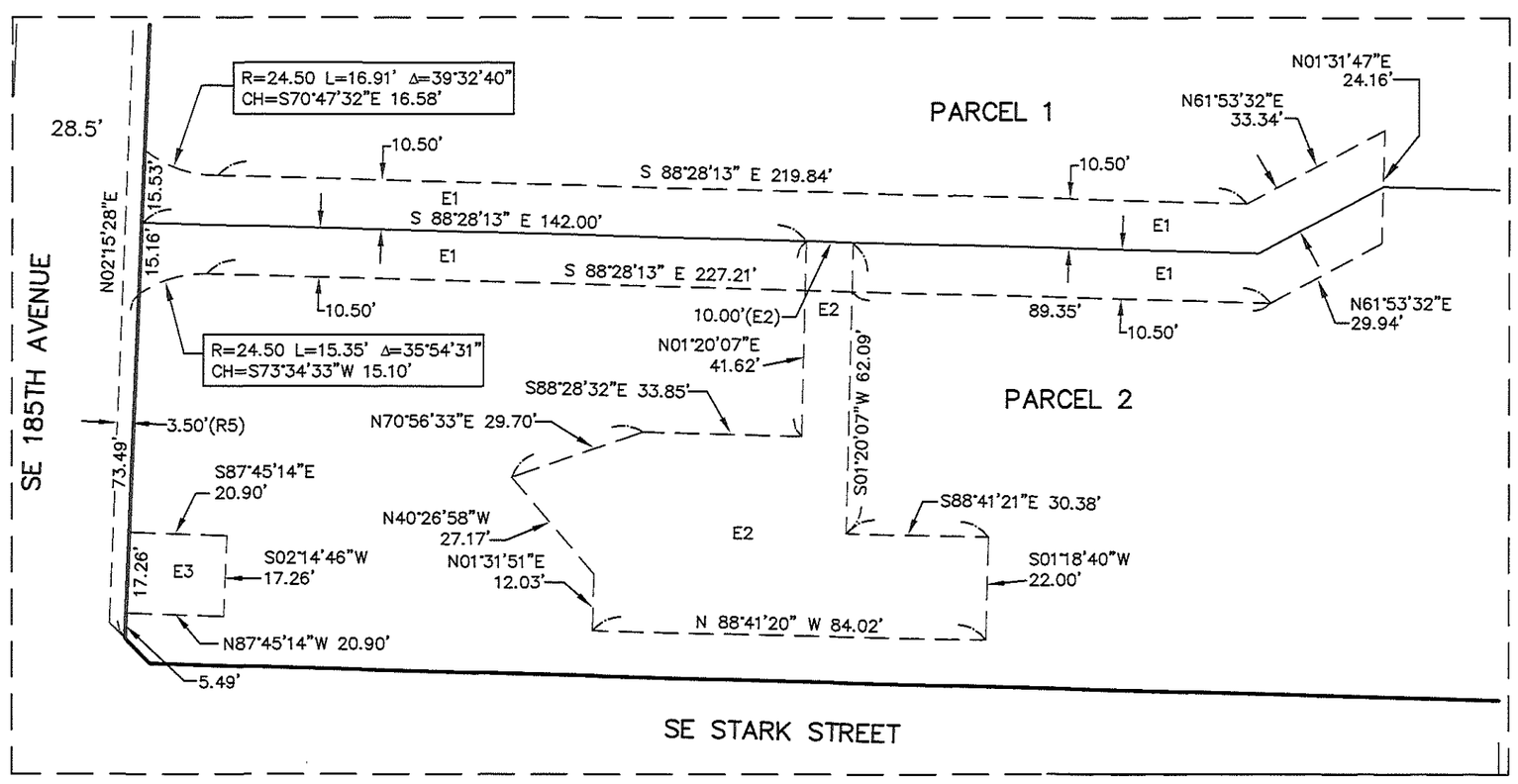
OREGON
JANUARY 15, 1987
JON T. FEIGION
2252

EXPIRES 12-31-19

I HEREBY CERTIFY THAT THIS A TRUE AND EXACT COPY OF THE ORIGINAL PARTITION PLAT.

EASEMENT LEGEND

E1 PRIVATE SANITARY SEWER, PRIVATE STORM SEWER AND JOINT ACCESS EASEMENT TO BENEFIT PARCELS 1 AND 2 CREATED ON PLAT
E2 PRIVATE STORM WATER EASEMENT TO BENEFIT PARCEL 1 CREATED ON PLAT
E3 PUBLIC WATER EASEMENTS TO BENEFIT ROCKWOOD WATER PUD CREATED ON PLAT
E4 PUBLIC STREET LIGHTING FACILITIES AND PUBLIC SIDEWALK EASEMENTS PER DOCUMENT NO. 2019-018066
E5 PUBLIC SIDEWALK EASEMENTS CREATED ON PLAT



EMERIO Design
6445 SW FALLBROOK PLACE, STE. 100
BEAVERTON, OREGON 97008
TEL: (503) 746-8812
FAX: (503) 639-9592
www.emeriodesign.com

JOB NO. 203-007

SHEET 2 OF 3

PARTITION PLAT NO. 2019-53

A REPLAT OF A PORTION OF
PARCEL 2, PARTITION PLAT NO. 2018-9
LOCATED IN THE
S.W. 1/4 OF SECTION 32, T.1N., R.3E., W.M.
CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON

AUGUST 21, 2019

SURVEYOR'S CERTIFICATE

I, JON T. FEIGION, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LAND REPRESENTED ON THE ATTACHED PARTITION PLAT MAP, BEING DESCRIBED AS FOLLOWS:

A PORTION OF PARCEL 2 OF PARTITION PLAT NO. 2018-9, MULTNOMAH COUNTY PLAT RECORDS LOCATED IN THE S.W. 1/4 OF SECTION 32, T.1N., R.3E., WILLAMETTE MERIDIAN, CITY OF GRESHAM, MULTNOMAH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INITIAL POINT WHERE I FOUND A 5/8" IRON ROD WITH YELLOW PLASTIC CAP MARKED "DEA INC." FOUND AT THE NORTHEAST CORNER OF SAID PARCEL 2, PARITION PLAT NO. 2018-9, BEING ON THE WESTERLY RIGHT OF WAY LINE OF S.E. 187TH AVENUE (42.00 FEET FROM CENTERLINE); THENCE ALONG SAID WESTERLY RIGHT OF WAY LINE 98.84 FEET ON THE ARC OF A 293.99 FOOT RADIUS CURVE CONCAVE TO THE EAST (THE RADIUS POINT BEARS SOUTH 69°43'52" EAST) THROUGH A CENTRAL ANGLE OF 19°50'50" (THE CHORD BEARS SOUTH 10°38'13" WEST, 98.38 FEET); THENCE CONTINUING ALONG SAID WESTERLY RIGHT OF WAY LINE, SOUTH 01°00'18" WEST, 85.22 FEET TO A POINT OF CURVATURE; THENCE 44.70 FEET ALONG THE ARC OF A NONTANGENT 27.50 FOOT RADIUS CURVE TO THE LEFT (THE RADIUS POINT BEARS SOUTH 04°08'08" WEST) THROUGH A CENTRAL ANGLE OF 93°07'36" (THE CHORD BEARS SOUTH 47°34'20"WEST, 39.94 FEET); THENCE S01°00'18"W 13.12 FEET TO THE NORTH RIGHT OF WAY LINE OF S.E. STARK STREET (45.00 FEET FROM CENTERLINE); THENCE ALONG SAID NORTH RIGHT OF WAY LINE, NORTH 88°27'32" WEST, 406.54 FEET;

THENCE NORTH 44°45'28" WEST, 7.52 FEET TO THE EAST RIGHT OF WAY LINE OF S.E. 185TH AVENUE (28.50 FEET FROM CENTERLINE); THENCE ALONG SAID EAST RIGHT OF WAY LINE, NORTH 02°15'28" EAST, 305.87 FEET TO THE NORTH LINE OF SAID PARCEL 2; THENCE ALONG SAID NORTH LINE, SOUTH 88°27'32" EAST, 244.12 FEET TO A POINT OF CURVATURE; THENCE 15.71 FEET ON THE ARC OF A 10.00 FOOT RADIUS CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 89°59'59" (THE CHORD BEARS SOUTH 43°27'32" EAST, 14.14 FEET; THENCE CONTINUE ALONG THE NORTHERLY LINE OF SAID PARCEL 2 THE FOLLOWING COURSES; SOUTH 01°32'27" WEST, 22.50 FEET; SOUTH 88°27'32" EAST, 9.17 FEET; SOUTH 01°32'28" EAST, 55.33 FEET; SOUTH 88°27'32" EAST, 188.23 FEET TO THE INITIAL POINT.

CONTAINING 120,247 SQUARE FEET, MORE OR LESS.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JANUARY 15, 1987
JON T. FEIGION
2252

EXPIRES 12-31-19

I HEREBY CERTIFY THAT THIS IS AN EXACT COPY OF THE ORIGINAL PARTITION PLAT.

DECLARATION

KNOW ALL PEOPLE BY THESE PRESENTS THAT GRESHAM REDEVELOPMENT COMMISSION, A POLITICAL SUBDIVISION OF THE STATE OF OREGON IS THE OWNER OF THE LAND DESCRIBED IN THE ATTACHED SURVEYOR'S CERTIFICATE AND AS SHOWN ON THE ANNEXED MAP, AND HAS CAUSED THE PARTITION PLAT TO BE PREPARED AND THE PROPERTY TO BE PARTITIONED IN ACCORDANCE WITH THE PROVISIONS OF O.R.S. CHAPTER 92 AND DOES HEREBY GRANT THE EASEMENTS AS SHOWN AND NOTED HEREON.

JOSH FUHRER
EXECUTIVE DIRECTOR
GRESHAM REDEVELOPMENT COMMISSION

ACKNOWLEDGEMENT

STATE OF OREGON)
)SS
COUNTY OF MULTNOMAH)

BE IT REMEMBERED THAT ON THIS 12 DAY OF September, 2019, BEFORE ME A NOTARY PUBLIC IN AND FOR SAID STATE AND COUNTY, PERSONALLY APPEARED JOSH FUHRER, EXECUTIVE DIRECTOR, GRESHAM REDEVELOPMENT COMMISSION WHO BEING DULY SWORN, DID SAY THAT HE IS THE IDENTICAL PERSON NAMED IN THE FOREGOING INSTRUMENT AND THAT HE EXECUTED SAID INSTRUMENT FREELY AND VOLUNTARILY ON BEHALF OF SAID COMMISSION.

NOTARY SIGNATURE

Zachary Tyee Taylor
NOTARY PUBLIC - OREGON

COMMISSION NO. 971627

MY COMMISSION EXPIRES: March 9, 2022

PLAT NOTES

1) THIS PARTITION PLAT IS SUBJECT TO THE CONDITIONS IMPOSED BY THE CITY OF GRESHAM IN FILE NUMBER MP 19-26000050.

2) THE PRIVATE ACCESS AND PRIVATE STORMWATER, WASTEWATER, AND WATER UTILITY EASEMENTS SHOWN ON THIS PLAT ARE PERPETUAL AND EXCLUSIVE, AND SHALL BE MAINTAINED BY THE BENEFITING LOTS.

3) PUBLIC EASEMENTS (EXCEPT FOR THE PUBLIC WATER EASEMENT) AND PUBLIC RIGHTS-OF-WAY ARE UNDER CITY OF GRESHAM JURISDICTION. THE PUBLIC WATER EASEMENT IS UNDER ROCKWOOD WATER PUD'S JURISDICTION.

4) THIS PARTITION PLAT IS SUBJECT TO LANDSCAPE MAINTENANCE EASEMENT RECORDED AS DOCUMENT NO. 2018-046715, MULTNOMAH COUNTY DEED RECORDS.

CITY OF GRESHAM APPROVALS

APPROVED THIS 1st DAY OF OCTOBER, 2019

URBAN DESIGN AND PLANNING DIRECTOR OR DELEGATE,
CITY OF GRESHAM

APPROVED THIS 27TH DAY OF SEPTEMBER, 2019

DEVELOPMENT ENGINEERING MANAGER OR DELEGATE,
CITY OF GRESHAM

MULTNOMAH COUNTY APPROVALS

APPROVED THIS 3rd DAY OF OCTOBER, 2019

COUNTY SURVEYOR, MULTNOMAH COUNTY, OREGON

BY: _____

ALL TAXES, FEES, ASSESSMENTS OR OTHER CHARGES AS PROVIDED BY O.R.S. 92.095

HAVE BEEN PAID AS OF: 07 October, 2019.

DIRECTOR
DIVISION OF ASSESSMENT AND TAXATION
MULTNOMAH COUNTY, OREGON

BY: Lina Moon
DEPUTY

STATE OF OREGON)
) SS
COUNTY OF MULTNOMAH)

I DO HEREBY CERTIFY THAT THE ATTACHED PARTITION PLAT WAS RECEIVED FOR RECORD AND RECORDED

Oct 7, 2019 AT
12:08 O'CLOCK P M.

AS PARTITION PLAT NO. 2019-53
COUNTY RECORDING OFFICE

BY: _____
DEPUTY

DOCUMENT NO. 2019-107204

EMERIO Design
6445 SW FALLBROOK PLACE, STE. 100
BEAVERTON, OREGON 97008
TEL: (503) 746-8812
FAX: (503) 639-9592
www.emeriodesign.com

JOB NO. 203-007

SHEET 3 OF 3

EXHIBIT B

Phase II Ground Lease

(see Attachment A in this meeting packet)

Attachment C

WHEN RECORDED, RETURN TO:

Jones Day
100 High Street, 21st Floor
Boston, MA 02110
Attention: Jeffrey D. Gaulin, Esq.

Recorder's Use

CONSENT, SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

PARTIES:

Gresham Redevelopment Commission	("Ground Lessor")
Rockwood Market Hall, an Oregon non-profit corporation	("Ground Lessee")
Central Bethany Development Co., a Limited Partnership, an Oregon limited partnership	("Senior Lender")
Craft3 Investment XIV, LLC, a Washington limited liability company,	("C3 Sub-CDE")
COCRF Sub-CDE 89, LLC, Delaware limited liability company	("COCRF Sub-CDE" together with the C3 Sub-CDE, each a "CDE Lender" and collectively, the "CDE Lenders"; the CDE Lenders together with the Senior Lender, the "Lenders")

This Consent, Subordination, Non-disturbance and Attornment Agreement ("Agreement") is made and entered into as of this ___ day of _____, 2020 (the "Effective Date"), by and between Ground Lessor, Ground Lessee and the Lenders.

RECITALS

A. Pursuant to that certain Amendment No. Three, dated as of _____, to that certain Land Development Agreement dated June 19, 2018, as previously amended pursuant to that certain Amendment No. One, dated May 8, 2019, and Amendment No. Two, dated May 10, 2019 (collectively, the "LDA"), Rockwood Rising Management, LLC, an Oregon limited liability company and Ground Lessor transferred certain development obligations thereunder with respect to the Property (as defined below) to the Ground Lessee. In accordance with the LDA, the Ground Lessee has agreed to develop the Property and the Ground Lessor has agreed to convey to Ground Lessee a long-term ground lease hold interest to the Property.

B. The Ground Lessee is the holder of a long-term ground leasehold interest in certain real property located in the Rockwood-West Gresham Urban Renewal Area described on Exhibit A attached hereto together with any and all rights, privileges, easements, and appurtenances thereto (the "Land") pursuant to that certain Ground Lease, dated as of the Effective Date (the "Ground Lease"), by and between the Ground Lessee and the Ground Lessor as the duly authorized and acting urban renewal agency of the City of Gresham, Oregon. The Land, together with any improvements now or hereafter constructed or existing thereon (collectively, the "Improvements"), are collectively referred to herein as the "Property."

C. On or about the Effective Date, Senior Lender made two loans to Ground Lessee, (i) one in the principal amount of $3,500,000 (the "Senior Loan") pursuant to a Loan Agreement by and between Senior Lender and Ground Lessee (the "Senior Loan Agreement") that is secured by, among other things, Ground Lessee's long-term ground leasehold estate granted under the Ground Lease and encumbered pursuant to, among other things, that certain Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing dated the Effective Date granted by the Ground Lessee in favor of the Senior Lender, in its capacity as a senior lender (the "Senior Deed of Trust", and collectively with the Senior Loan Agreement and any promissory notes, agreements, and instruments related thereto, the "Senior Loan Documents"), and (ii) the other in the principal amount of $2,351,701 (the "Junior Loan") pursuant to a promissory note made by Ground Lessee payable to Senior Lender (the "Junior Loan Note") that is secured by Ground Lessee's long-term ground leasehold estate granted under the Ground Lease and encumbered pursuant to that certain Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing dated the Effective Date granted by the Ground Lessee in favor of the Senior Lender, in its capacity as a subordinate lender (the "Junior Deed of Trust", and collectively with the Junior Loan Note and any agreements and instruments related thereto, the "Junior Loan Documents"). The term "Senior Deed of Trust" includes all modifications, amendments and replacements for the Senior Deed of Trust and the term "Junior Deed of Trust" includes all modifications, amendments and replacements for the Junior Deed of Trust.

D. On the Effective Date Craft 3, a Washington nonprofit corporation (the "Senior Loan Assignee"), has made a loan to the Senior Lender in the amount of $3,500,000 (the "Source Loan"),

and in connection with the Source Loan the Senior Lender has collaterally assigned all of its rights, interests and obligations under the Senior Loan Documents (the "Senior Loan Assignment") to the Senior Loan Assignee, including without limitation its rights, interests and obligations under this Agreement and the Senior Deed of Trust. Any documents securing and evidencing the Source Loan, including without limitation any promissory notes, agreements, and instruments related thereto are referred to as the "Source Loan Documents".

E. On or about the Effective Date, the CDE Lenders will make certain loans to Ground Lessee in the aggregate principal amount of $8,790,000 (collectively, the "QLICI Loan") pursuant to a Loan Agreement by and among the CDE Lenders and Ground Lessee (the "QLICI Loan Agreement") that is secured by, among other things, Ground Lessee's long-term ground leasehold estate granted under the Ground Lease and encumbered pursuant to, among other things, that certain Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing dated the Effective Date granted by the Ground Lessee in favor of the CDE Lenders (the "QLICI Deed of Trust", and collectively with the QLICI Loan Agreement and any promissory notes, agreements, and instruments related thereto, the "QLICI Loan Documents"). The term "QLICI Deed of Trust" includes all modifications, amendments and replacements for the Deed of Trust. The term "QLICI Loan" includes any subsequent increases, consolidations, renewals, extensions, modifications and refinancings of Ground Lessee's loans with the CDE Lenders.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Lease and Loan Document Amendments, Modifications and Terminations.

(a) Notwithstanding anything herein to the contrary or in each of the LDA, Ground Lease, the Source Loan Documents, the Senior Loan Documents or the QLICI Loan Documents, each of Ground Lessor and Ground Lessee, acknowledge and agree that in no event shall any of the LDA or Ground Lease be amended, modified or terminated without the prior written consent of each of the Lenders. Any modification, amendment, cancellation, surrender or termination of any of the LDA or the Ground Lease without the consent of the Lenders shall be void and of no force or effect; provided, that, the Ground Lease may be amended, modified or terminated as provided therein, subject only to the express agreements of the Ground Lessor herein.

(b) The Senior Loan Documents, the QLICI Loan Documents, and the Junior Loan Documents may not be amended without the prior consent of the Senior Lender and the CDE Lenders; provided, that, the Senior Lender's consent shall not be required in connection with any QLICI Loan Document modifications the sole purpose of which would be to prevent or cure a violation of any provision of the New Markets Tax Credit Program ("NMTC Program"), established under Section 45D of the Internal Revenue Code of 1986, as amended, applicable to the Property or the Ground Lessee.

2. Consents and Senior Loan Assignee recognition as Senior Lender.

(a) Ground Lessor acknowledges notice of and consents, to the extent required under and to the extent consistent with the terms of the Ground Lease, to each of the Source Loan, the QLICI Loan, the Junior Loan and the Senior Loan.

(b) Senior Lender acknowledges notice of and consents to each of the Ground Lease, the Junior Loan Documents and the QLICI Loan Documents, and the terms and conditions thereof.

(c) Each CDE Lender acknowledges notice of and consents to each of the Ground Lease, the Source Loan Documents, the Senior Loan Documents, and the Junior Loan Documents, and the terms and conditions thereof.

(d) Ground Lessee acknowledges notice of and consents to each of the Ground Lease, the Senior Loan Documents, the Source Loan Documents, the Junior Loan Documents and the QLICI Loan Documents, and the terms and conditions thereof.

(e) The Senior Lender, CDE Lenders, Ground Lessor and Ground Lessee hereby acknowledge and agree that in connection with the Senior Loan Assignment, the Senior Loan Assignee shall be considered to be the "Senior Lender" under this Agreement as of the Effective Date for all intents and purposes until such time as the Source Loan Assignment shall be terminated and written notice of such termination provided to all the parties to this Agreement. If at any time the Senior Loan is held directly by Central Bethany Development Co. or any affiliate of Roy Kim, an individual , then such loan shall cease to be senior in priority to the QLICI Loans and the QLICI Loans thereafter shall be considered a first lien against the Property. The parties acknowledge and agree that they will execute a replacement form of consent, subordination and non-disturbance agreement to memorialize the foregoing agreement.

3. **Subordination of Ground Lease**. Ground Lessee hereby irrevocably subordinates all of its rights, title and interest under the Ground Lease to (i) the Senior Deed of Trust and the Senior Lender's lien and rights thereunder, and (ii) the QLICI Deed of Trust and the CDE Lenders' lien and rights thereunder, including but not limited to each and every right Ground Lessee may now or hereafter have by virtue of the Ground Lease. The foregoing subordination is effective and self-operative without the necessity for execution of any further instruments. Ground Lessee hereby covenants with Lenders that Ground Lessee will not cause its rights under the Ground Lease to be subordinated to any interests other than those held by or made for the benefit of Lenders and/or their respective successors and assigns without prior written notice to and prior written consent of Lenders. At any time at the election of Lenders, Lenders may declare the Ground Lessee's rights under the Ground Lease superior to the lien, provisions, operation and effect of the Senior Deed of Trust or the QLICI Deed of Trust, as applicable.

4. **Ground Lease Termination**. Each of Ground Lessor, Ground Lessee and Lenders acknowledge and agree that Lenders shall have the rights and obligations granted the holder of the First Leasehold Mortgage pursuant to Section 18.3 of the Ground Lease. Upon execution of a replacement Ground Lease and release of the Senior Deed of Trust and QLICI Deed of Trust, any

subsequent first position leasehold mortgagee(s) encumbering the leasehold estate created thereby shall be deemed the "First Leasehold Mortgagee".

5. **Recognition of Successor Ground Lessee.** Each of Ground Lessor, Ground Lessee and Lenders agree that if the holder(s) of the Senior Deed of Trust or QLICI Deed of Trust, or any person claiming under said holder(s) (whether by a foreclosure, deed in lieu of foreclosure or otherwise) (each, a "Successor Ground Lessee"), as permitted under the Ground Lease, succeeds to the interest of Ground Lessee under the Ground Lease, Ground Lessor will recognize such Successor Ground Lessee as the Ground Lessee under the Ground Lease and hereunder to the extent required under the Ground Lease. Except as required under the Ground Lease, such recognition will be effective and self-operative without the execution of any further instrument on the part of any of the parties hereto. For the avoidance of doubt each Successor Ground Lessee shall continue to be bound by the terms of this Agreement. Such Successor Ground Lessee will be liable to Ground Lessor under the Ground Lease only during such Successor Ground Lessee's period of ownership, and, notwithstanding a subsequent transfer of such Successor Ground Lessee's ownership interest, any such liability will continue and survive if it accrued during such Successor Ground Lessee's period of ownership. Notwithstanding anything to the contrary contained herein, officers, directors, shareholders, agents, servants and employees of Lenders shall have no personal liability to Ground Lessor and the liability of the Lenders shall be limited to the Lenders' interest in the Property.

6. **Ground Lease Estoppels**. Ground Lessor and Ground Lessee, hereby certify to and agree that, as of the Effective Date:

(a) the Ground Lease is in full force and effect;

(b) all the requirements for the commencement and validity of the Ground Lease have been satisfied;

(c) to the best of Ground Lessor's knowledge, information and belief, Ground Lessee is not in default under the Ground Lease;

(d) to the best of Ground Lessee's knowledge, information and belief: Ground Lessor, is not in default under the Ground Lease; no act, event or condition has occurred, that with notice or the lapse of time, or both, would constitute a default by Ground Lessor or Ground Lessee under the Ground Lease; and no claim by Ground Lessee of any nature exists against Ground Lessor under the Ground Lease;

(e) to the best of Ground Lessor's knowledge, information and belief, there are no defenses, counterclaims, or setoffs against rents or charges due or which may become due under the Ground Lease;

(f) the Ground Lease has not been modified or amended;

(g) to the best of Ground Lessor's knowledge, information and belief, Ground Lessee has not assigned, mortgaged, sublet, encumbered or otherwise transferred and will not assign, mortgage, sublet, encumber or otherwise transfer any or all of its interest under

the Ground Lease except (i) as otherwise provided by the Ground Lease, (ii) pursuant to the Senior Deed of Trust as security for the Senior Loan, (iii) pursuant to the QLICI Deed of Trust as security for the QLICI Loan, and (iv) pursuant to the Junior Deed of Trust as security for the Junior Loan; and

(h) Ground Lessee certifies and agrees that it has not assigned, mortgaged, sublet, encumbered or otherwise transferred and will not assign, mortgage, sublet, encumber or otherwise transfer any or all of its interest under the Ground Lease except (i) pursuant to the Senior Deed of Trust as security for the Senior Loan, (ii) pursuant to the QLICI Deed of Trust as security for the QLICI Loan, and (iii) pursuant to the Junior Deed of Trust as security for the Junior Loan.

7. Notice of Ground Lease or Loan Default.

(a) Ground Lessor agrees with Lenders that it will comply with the lender protections relating to default and cure set forth in Section 18.3 of the Ground Lease as such lenders are "Permitted Leasehold Mortgagees" thereunder.

(b) Contemporaneously with giving or sending notice by any Lender of a default or other noncompliance under any of the Senior Loan Documents or QLICI Loan Documents, such notifying party shall send a copy of such notice to the other Lenders and Source Lender and the Ground Lessor and such notifying Lender may only proceed to exercise remedies in connection with such default or other noncompliance in strict accordance with this Agreement.

8. Casualty and Condemnation Provisions.

(a) The Parties hereto all acknowledge and agree that notwithstanding anything in the LDA, Ground Lease, Senior Loan Documents, the QLICI Loan Documents or the Junior Loan Documents to the contrary, if there is a fire or casualty loss which damages all or a portion of the Property, then the proceeds of the insurance shall be deposited into the disbursement account held with Capital One, National Association ("Casualty Disbursement Account") and such proceeds will be applied to the payment of the cost of restoration of the Property in accordance with the terms and conditions set forth in a construction monitoring and disbursement agreement ("CMDA") in substantially the same form of the CMDA executed on the date hereof by and among Capital One, National Association, the CDE Lenders, the Senior Lender and the Ground Lessee for the original construction of the Property, with such CMDA only modified for factual reasons and not for modifications to any substantive rights of the parties under the original CMDA; provided, that (i) such insurance proceeds must be adequate to cover the cost of restoration of the Property in accordance with the plans and specifications originally approved by the Lenders (and such future plans and specifications shall also continue to satisfy the requirements of the NMTC Program), or if the proceeds are insufficient, then Ground Lessee shall give the Lenders such adequate protection and assurance as the Lenders may, in their reasonable discretion, require (which may include a deposit of additional funds by Borrower into the Casualty Disbursement Account), that additional funds will be provided

by Ground Lessee in order to complete the restoration of the Improvements, (ii) Ground Lessee shall have provided Lenders with such adequate protection and assurance as the Lenders may, in their reasonable discretion, require, that Ground Lessee has sufficient funds on hand to pay interest and principal on the Senior Loan and the QLICI Loan during the restoration period, (iii) no Event of Default has occurred, (iv) restoration can be completed six (6) months prior to the seventh (7th) anniversary of the Effective Date, and (v) the priority of the collateral under the QLICI Deed of Trust and the Senior Deed of Trust is not impaired (collectively the foregoing, the "**Restoration Conditions**"). In connection with any restoration of the Improvements, Ground Lessee shall provide the Lenders with a detailed cost breakdown showing by line item all costs projected for such restoration and a revised and updated cost breakdown shall be furnished by Ground Lessee to the Lenders on a monthly basis.

(b) The Parties hereto all acknowledge and agree that notwithstanding anything in the LDA, Ground Lease, Senior Loan Documents, QLICI Loan Documents or Junior Loan Documents to the contrary, if there is a partial condemnation of the Property, so long as the Restoration Conditions are met, the Ground Lessee can use any award toward restoring the Property (subject to potential modifications to the plans and specifications approved by the Lenders to account for any loss in the underlying land).

(c) If the Restoration Conditions cannot be satisfied following either a casualty or condemnation, the insurance or any takings awards associated with either event shall be remitted (i) first, to the Senior Lender until all Senior Loan obligations are repaid, (ii) second, to CDE Lenders until all QLICI Loan obligations are repaid, (iii) fourth, to the holder of the Junior Deed of Trust until all Junior Loan obligations are repaid, and (iii) fourth, to anyone else legally entitled to such proceeds.

9. **Refinancing of Senior Loan**.

(a) For purposes of this Agreement, (1) "**Refinance**" means, in respect of any indebtedness, to refinance, extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other indebtedness, in exchange or replacement for, such indebtedness in whole or in part; provided that, to the extent any such refinancing indebtedness is secured, such indebtedness is secured by liens meeting, without limitation, the priority, subordination and other requirements of this Agreement, and "**Refinanced**" and "**Refinancing**" shall have correlative meanings, (2) "**Debt Service**" means all principal and interest payments due in connection with any indebtedness over the six month period following the applicable date of determination, (3) "**Net Operating Income**" means Borrower's net operating income over the six month period preceding the applicable date of determination and as determined in the manner set forth on pages [42-43] of the Financial Projections (as such term is defined in the QLICI Loan Agreement), and (4) "**Debt Service Coverage Ratio**" means a ratio determined by dividing the Net Operating Income by the applicable Debt Service.

(b) The Senior Loan, the Junior Loan or the Source Loan may be Refinanced with the same or different lenders or representatives in a Refinancing, in each case without

the consent of the CDE Lenders, provided that in the event of a refinancing of the Senior Loan and/or the Junior Loan, the resulting Debt Service Coverage Ratio, (i) taking into consideration Debt Service due under the Refinance Loan, the remaining balance of the QLICI Loans (after the refinance) and any loan with mandatory Debt Service payments (i.e. not due solely to the extent Net Operating Income is available) (collectively, the "**Hard Debt Payments**") will be at least equal 1.05 to 1.0, and (ii) taking into consideration the (x) Hard Debt Payments and (y) any loans with Debt Service due solely from the Borrower's Net Operating Income (the "**Cash Flow Debt Payments**"), will be equal to an amount that permits the Cash Flow Debt Payments to be paid in full through the term of such loans; provided, however, that in the event of a refinancing of the Senior Loan and/or the Junior Loan, the holders of any Refinancing must bind themselves in writing to the terms of this Agreement (including without limitation maintaining the same lien priorities of the loans being Refinanced), and any amendment, supplement, modification or Refinancing of the Senior Loan and/or Junior Loan shall not be made without the consent of the CDE Lenders if the effect is to contravene any provision of this Agreement as determined by CDE Lenders in their reasonable discretion.

10. **Notices.** All notices given hereunder must be given in the manner provided for in the Ground Lease (with respect to Ground Lessor), the QLICI Loan Documents (with respect to CDE Lenders and Ground Lessee), and the Senior Loan Documents (with respect to Senior Lender). Notices must be provided at the addresses set forth below or such other address or person as the parties hereto may from time to time hereafter specify in the manner provided above:

If to Ground Lessor:
Gresham Redevelopment Commission
Gresham City Hall
1333 N.W. Eastman Parkway
Gresham, Oregon 97030-3813
Attention: Executive Director
Email: emily.bower@greshamoregon.gov

with a copy to:
City Attorney
Gresham City Hall
1333 N.W. Eastman Parkway
Gresham, Oregon 97030-3813
Attention: Kevin R. McConnell
Email: kevin.mcconell@greshamoregon.gov

If to Ground Lessee:
Rockwood Market Hall
15160 NW Laidlaw Road, Suite 108
Portland, OR 97229
Attn: Roy Kim
Email: roy@centralbethany.com

with a copy to:	Law Office of Alan L. Pasternack, LLC 6029 NE 29th Ave. Portland, OR 97211 Email: alan@apasternack.com
If to Senior Lender (if the Senior Loan is not held by the Senior Loan Assignee):	Central Bethany Development Co. 15160 NW Laidlaw Road, Suite 108 Portland, OR 97229 Attention: Roy Kim Email: roy@centralbethany.com
with a copy to:	Law Office of Alan Pasternack 6029 NE 29th Avenue Portland, OR 97211 Attention: Alan L. Pasternack Email: alan@apasternack.com
If to C3 CDE Lender or Senior Lender (for so long as the Senior Loan is held by the Senior Loan Assignee):	c/o Craft 3 42 7th Street, Suite 100 Astoria, OR 97103 Attention: Walt Postlewait Email: wpostlewait@craft3.org
with a copy to:	Farella, Braun + Martel LLP Russ Building 235 Montgomery Street San Francisco, CA 94104 Attention: Julie A. Treppa Email: jtreppa@fbm.com
If to the COCRF CDE Lender:	Capital One, National Association Debt Capital Markets Place St. Charles, Suite 2900 201 St. Charles Ave. New Orleans, LA 70170 Attention: Spencer Gagnet Email: spencer.gagnet@capitalone.com
with a copy to:	Jones Day 100 High Street, 21st Floor Boston, MA 02110 Attention: Jeffrey D. Gaulin, Esq. Email: jgaulin@jonesday.com

11. **Successors and Assigns.** All the terms and provisions of this Agreement inure to the benefit of and are binding upon the heirs, personal representatives, successors and/or assigns of the parties to this Agreement, including but not limited to the Lenders.

12. **Attorney Fees.** If suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. bankruptcy Code) is commenced to interpret or enforce any provisions of this Agreement, the prevailing party will be entitled to recover from the losing party its reasonable attorneys' fees, costs and expenses actually incurred and reasonably necessary in connection therewith, at trial, on appeal or in any arbitration proceeding, in addition to all other amounts provided by law.

13. **Entire Agreement.** This Agreement sets forth the entire understanding of the parties with respect to the subject matter of this Agreement, and supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to such subject matter.

14. **Governing Law.** This Agreement is governed by and must be construed in accordance with the laws of the State of Oregon.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above set forth.

ROCKWOOD MARKET HALL,
An Oregon nonprofit corporation

By: _____
Name: _____
Title: _____

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This instrument was acknowledged before me on _____, 2020, by _____, the _____ of Rockwood Market Hall, Inc.

NOTARY PUBLIC in and for the State of Oregon

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above set forth.

CENTRAL BETHANY DEVELOPMENT CO., A LIMITED PARTNERSHIP,
An Oregon limited partnership

By: THE KIM GROUP, LTD., an Oregon corporation

By: _____
Name: Roy Kim
Title: President

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 20 by Roy Kim, the President of Central Bethany Development Co.

NOTARY PUBLIC in and for the State of
_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above set forth.

CRAFT3 INVESTMENT XIV, LLC,
a Washington limited liability company

By: CRAFT3, a Washington nonprofit corporation

By: _____
Name: Adam Zimmerman
Title: President and CEO

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2020, by Craft 3 the managing member of Craft3 Investment XIV, LLC, by Adam Zimmerman, the President and CEO of Craft3.

NOTARY PUBLIC in and for the State of
_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above set forth.

COCRF SUBCDE 89, LLC,
a Delaware limited liability company

By: Capital One Community Renewal Fund, LLC,
a Delaware limited liability company,
its manager

By: _____
Name: Douglas Fields
Title: Director

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2020, by Douglas Fields, the Director of Capital One Community Renewal Fund, LLC, a Delaware limited liability company, the manager of COCRF SubCDE 89, LLC, a Delaware limited liability company.

NOTARY PUBLIC in and for the State of
_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above set forth.

GRESHAM REDEVELOPMENT COMMISSION,
a duly designated Urban Renewal Agency of the City of Gresham

By: _____
Name: Emily Bower
Title: Interim Executive Director

STATE OF _____)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2020, by Emily Bower, the Interim Executive Director of Gresham Redevelopment Commission, a duly designated Urban Renewal Agency of the City of Gresham.

NOTARY PUBLIC in and for the State of
_____

EXHIBIT A

Property

Phase II

Building C and Plaza:

Parcel 1, PARTITION PLAT NO. 2019-53, in the City of Gresham, County of Multnomah and State of Oregon, according to the plat recorded October 7, 2019, as Document No. 2019-107204.

Attachment D

WHEN RECORDED, MAIL TO:

_____
_____
_____

PARTIAL TERMINATION OF GROUND LEASE

THIS PARTIAL TERMINATION OF GROUND LEASE (this "Lease") is entered into as of the ___ day of August, 2020 (the "Effective Date"), by and between GRESHAM REDVELOPMENT COMMISSION, the duly authorized and acting urban renewal agency of the City of Gresham, Oregon ("Lessor"), and ROCKWOOD RISING MANAGEMENT, LLC, an Oregon limited liability ("Lessee").

WHEREAS, Lessor and Lessee are parties to that certain Ground Lease dated as of May 10, 2019 (the "Ground Lease") with respect to certain Land and all rights, privileges, easements, and appurtenances thereto as more fully described in the Ground Lease;

WHEREAS, the Land comprises the Phase I Premises and the Phase II Premises, as such terms are defined in the Ground Lease;

WHEREAS, as of October 7, 2019, the Land was partitioned into two separate parcels pursuant to Partition Plat 2019-53;

WHEREAS, pursuant to the terms of the Ground Lease, Lessor and Lessee desire to Amend the Ground Lease to terminate the leasehold estate of Lessee in the Phase II Premises.

AGREEMENT

For and in consideration of the mutual promises, covenants and conditions set forth herein, the parties agree as follows:

1. The Ground Lease is hereby terminated as to the Phase II Property.

2. Except as provided herein, the Ground Lease shall remain in full force and effect.

3. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Ground Lease.

[*Signature pages follow.*]

IN WITNESS WHEREOF, the parties hereto have executed this Partial Termination of Ground Lease as of the day and year first above set forth.

LESSOR:

GRESHAM REDVELOPMENT COMMISSION**,**

By: _____
Name: Emily Bower
Title: Interim Executive Director

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This record was acknowledged before me on _____, 2020, by _____, the _____ of GRESHAM REDVELOPMENT COMMISSION, the duly authorized and acting urban renewal agency of the City of Gresham, Oregon.

_____
NOTARY PUBLIC in and for the State of Oregon

[*Signatures continue on following page.*]

IN WITNESS WHEREOF, the parties hereto have executed this Partial Termination of Ground Lease as of the day and year first above set forth.

LESSEE:

ROCKWOOD RISING MANAGEMENT, LLC,
An Oregon limited liability company

By: _____
Name: Roy Kim
Title: Manager

STATE OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

This record was acknowledged before me _____, 2020, by Roy Kim, the Manager of Rockwood Rising Management, LLC, an Oregon limited liability company.

_____
NOTARY PUBLIC in and for the State of Oregon

[*End of signature pages.*]

Attachment E

GRESHAM
REDEVELOPMENT COMMISSION

PHASE II ACCESS AREA LICENSE AGREEMENT

THIS PHASE II ACCESS AREA LICENSE AGREEMENT ("License") is entered into by and between the GRESHAM REDEVELOPMENT COMMISSION ("Licensor") and ROCKWOOD MARKET HALL ("Licensee").

RECITALS

WHEREAS, Licensor is the owner of property located in the Rockwood Town Center known as the Catalyst Site, between Burnside Road, Stark Street, 185th and 187th Avenues in the City of Gresham, Oregon ("Licensor Property"), and

WHEREAS, Licensor and Licensee, as successor entity, have entered into that certain Land Development Agreement ("LDA") dated June 19, 2018, as amended. for the purpose of developing Licensor Property in multiple phases known as the Rockwood Rising Project (collectively, "the Projects"), and

WHEREAS, Licensor, as landlord, and Licensee, as tenant, intend to execute a ground lease for a portion of the Licensor Property (such leasehold interest being referred to herein as the "Licensee Property") whereupon Licensee shall construct a plaza, parking area, and building known as Building C containing retail on the ground floor and office on the second and third floors, and make certain other improvements constituting the second phase of the Rockwood Rising Project ("Phase II Rockwood Rising Project") (such ground lease being referred to herein as the "Phase II Rockwood Rising Ground Lease"), and

WHEREAS, Licensee needs access to non-leased portions of the Licensor-Property for certain uses, and

WHEREAS, the Licensor has agreed to allow Licensee temporary use of unleased portions of the Licensor Property for vehicular and pedestrian access, construction staging, and parking pursuant to the terms and conditions set forth in this License.

NOW, THEREFORE, the Licensor and Licensee agree as follows:

1. LICENSE. Licensor hereby grants to Licensee a temporary and non-exclusive license to use the portion of Licensor Property as shown on Exhibit A ("Access Area"), which is attached to and made a part of this License. The rights of Licensee under this License shall include a nonexclusive right of Licensee to use the Access Area for ingress and egress to Licensee Property, as well as for parking and construction staging on non-leased portions of the Access Area.

2. TERM. The term of this License shall begin upon execution of the Phase II Rockwood Rising Ground Lease and shall terminate upon occupancy of Phase II Rockwood Rising Project. If the Leasehold Mortgage is foreclosed during the term of this License, Licensor shall grant the Leasehold Mortgagee a replacement License subject to the terms and conditions of this License.

3. FEE. No fee shall be required for this License.

4. USE - LICENSE NONEXCLUSIVE/CONSTRUCTION/MAINTENANCE. The rights of the Licensee hereunder shall be to temporarily use the Access Area for the purpose of vehicular and pedestrian access, construction staging, and parking for contractors, as determined by the Director and as specified in a Site Plan prepared by Licensee which is attached as Exhibit A. The Site Plan shall designate specific areas of the Access Area for construction staging, construction parking, and ingress and egress. Licensee shall construct a fence or other barrier around areas used for storage of construction materials and equipment to prevent the public from harming or being harmed by such equipment and materials. Licensee shall erect signage on the Access Area that specifies areas for parking for contractors. Licensee shall maintain the Access Area, including keeping the Access Area free of litter, debris, graffiti, as well as removing snow and maintaining landscaped areas. Licensee shall not cause any damage to the Access Area. Licensee understands that this License is a nonexclusive License and that the Licensor reserves all rights to use the Access Area in any manner consistent with the Rockwood-West Gresham Renewal Plan or the normal use of public property, subject to the terms of the LDA. Licensee understands that Licensor and City of Gresham personnel may use the Access Area. Licensor reserves, on its behalf and the behalf of the City of Gresham and the public, the right to use, occupy, and enjoy the Access Area for such purpose, in such manner, and at such time as it shall desire, the same as if this License had not been executed by it. Licensor shall not be liable to Licensee on account of any damages arising out of any use that Licensor or the City of Gresham may make of the Access Area.

5. INDEMNIFICATION AND INSURANCE. Licensee shall indemnify, hold harmless and defend the Licensor and the City of Gresham, and their officers, agents, and employees, from and against any and all liens and encumbrances of any nature whatsoever which may arise in the exercise of Licensee's rights hereunder and from all claims, causes of action, liabilities, costs and expenses (including all reasonable attorney's and in-house counsel fees) for losses or damages arising from Licensee's use of the Access Area, any breach of this License, or any act or failure to act of Licensee or Licensee's officers, agents, employees, or invitees, except those arising out of the sole negligence or willful misconduct of the Licensor or the City of Gresham, and their officers, agents and employees. Licensee shall include the Access Area as property covered by the liability insurance requirements of Section 8.2 and 8.3 of the Rockwood Rising Phase II Ground Lease.

6. RISK OF DAMAGE OR LOSS. Licensee, as a material part of the consideration to Licensor, hereby assumes all risk of damage to its property or injury to all persons and personal property in or upon the Access Area that results from Licensee's use of Access Area. Licensee hereby releases and relieves Licensor, and waives its entire right of recovery against Licensor, for any loss or damage arising out of or incident to the Licensee's use of the Access Area.

7. ALTERATIONS. Licensee shall not alter the Access Area or any improvements on the Access Area except as specifically authorized by the Director.

8. LIENS, TAXES AND ASSESSMENTS. Licensee shall keep the Access Area free from all liens, taxes and assessments resulting from or caused by the Licensee's use of the Access Area, and shall use the Access Area in full compliance with all federal, state and municipal laws, ordinances and regulations governing the use and occupancy of the Access Area. Licensee shall pay before delinquency all real property taxes that may be assessed to the Access Area.

9. SIGNAGE. Licensor may post signage on the Access Area in compliance with state and local law and upon written approval from the Director in the Director's sole discretion.

10. SURRENDER. Upon the termination of this license, all rights, use and interest of the Licensee in and to this License shall be immediately surrendered peaceably to the Licensor.

11. DEFAULT. In the event of a breach by Licensee of any of the terms of this License, all rights of Licensee hereunder shall cease and terminate, and in addition to all other rights Licensor may have at law or in equity, Licensor may re-enter the Access Area and take possession thereof without notice and may remove any and all persons and property therefrom, and may also cancel and terminate this License; upon any such cancellation, all rights of Licensee in and to the Access Area shall cease and terminate.

12. RULES AND REGULATIONS. The Director shall have the right to establish and enforce reasonable rules and regulations concerning the management, use and operation of the Access Area, and compliance with said rules and regulations by the Licensee and his officers, agents and employees is expressly made a term of this License.

13. ASSIGNMENT. Subject to the assignments of this License approved in this section, this License is personal to the Licensee and Licensee agrees not to sublease, assign, sell, transfer, encumber, pledge or otherwise hypothecate any part of the License or Licensee's interest in the Access Area to any other person or entity without the prior written consent of the Licensor, which consent may be withheld in the Licensor's sole and absolute discretion. Any purported assignment or sublease by Licensee of this License shall be void *ab initio* and a basis for immediate termination of this License. In the event that the Licensor shall provide such prior written consent to an assignment or sublease of the License as set forth above by Licensee, any such assignment or sublease shall not relieve Licensee of its obligations under this License. The Licensor hereby consents to the Licensee assigning its rights and interests under this License to Rockwood Rising, LLC and Rockwood D, LLC (collectively, the "Licensee Related Parties") pursuant to certain ground leases to be entered into on or about the date hereof by Licensee, as landlord, and each of the Licensee Related Parties, each as a tenant. The Licensor also hereby consents to the assignment of this License by the Licensee or the Licensee Related Parties to their applicable Leasehold Mortgagees.

14. ATTORNEY'S FEES. If any party named herein brings an action to enforce the terms hereto or to declare its rights hereunder, the prevailing party in any such action, on trial and appeal, shall be entitled to recover its costs and reasonable attorney's fees, including those of in-house counsel.

15. NOTICES. All notices, consents, requests, demands, approvals, waivers, and other communications desired or required to be given hereunder shall be in writing and signed by the party so giving notice, and shall, with respect to the Licensor, be delivered, received and time stamped in the office of the Gresham Redevelopment Commission Executive Director, Gresham City Hall, 1333 N.W. Eastman Parkway, Gresham, Oregon 97030-3813. With respect to the Licensee, the notices shall be given to: Mr. Roy Kim, Board Member, Rockwood Market Hall, 15160 NW Laidlaw Road, #108, Portland, Oregon 97229. Either party may, from time to time, change the designated party and address for its notices in writing in the manner outlined above. Notices to any Leasehold Mortgagees shall be in accordance with that Consent, Subordination, Non-Disturbance and Attornment Agreement executed on or about the date hereof by the

Leasehold Mortgagees, the Licensee, the Licensor and the Licensee Related Parties (the "CSNDA").

16. GOVERNING LAW. The provisions of this License shall be construed in accordance with the laws of the State of Oregon and ordinances of the City of Gresham, Oregon. Any action or suits involving any question arising under this License must be brought in the appropriate court in Multnomah County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon.

17. AMENDMENTS AND THIRD PARTY BENEFICIARIES. No provision of this License may be amended or modified except by an agreement in writing executed by both parties hereto. Each of the Leasehold Mortgagees shall be third party beneficiaries which can enforce the provisions of this License.

18. SEVERABILITY. In the event that one or more of the provisions contained in this License shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and the remainder of the provisions of this License shall continue in full force and effect without impairment.

19. SOLE AGREEMENT. This License constitutes the sole agreement between the Licensor and the Licensee with respect to the Access Area.

IN WITNESS WHEREOF, each of the parties has caused its authorized representative to execute duplicate original counterparts of this License this _____ day of August 2020.

LICENSOR	LICENSEE
Gresham Redevelopment Commission	Rockwood Market Hall
_____	By: _____
Emily Bower Interim Executive Director	Name: _____
	Title: _____

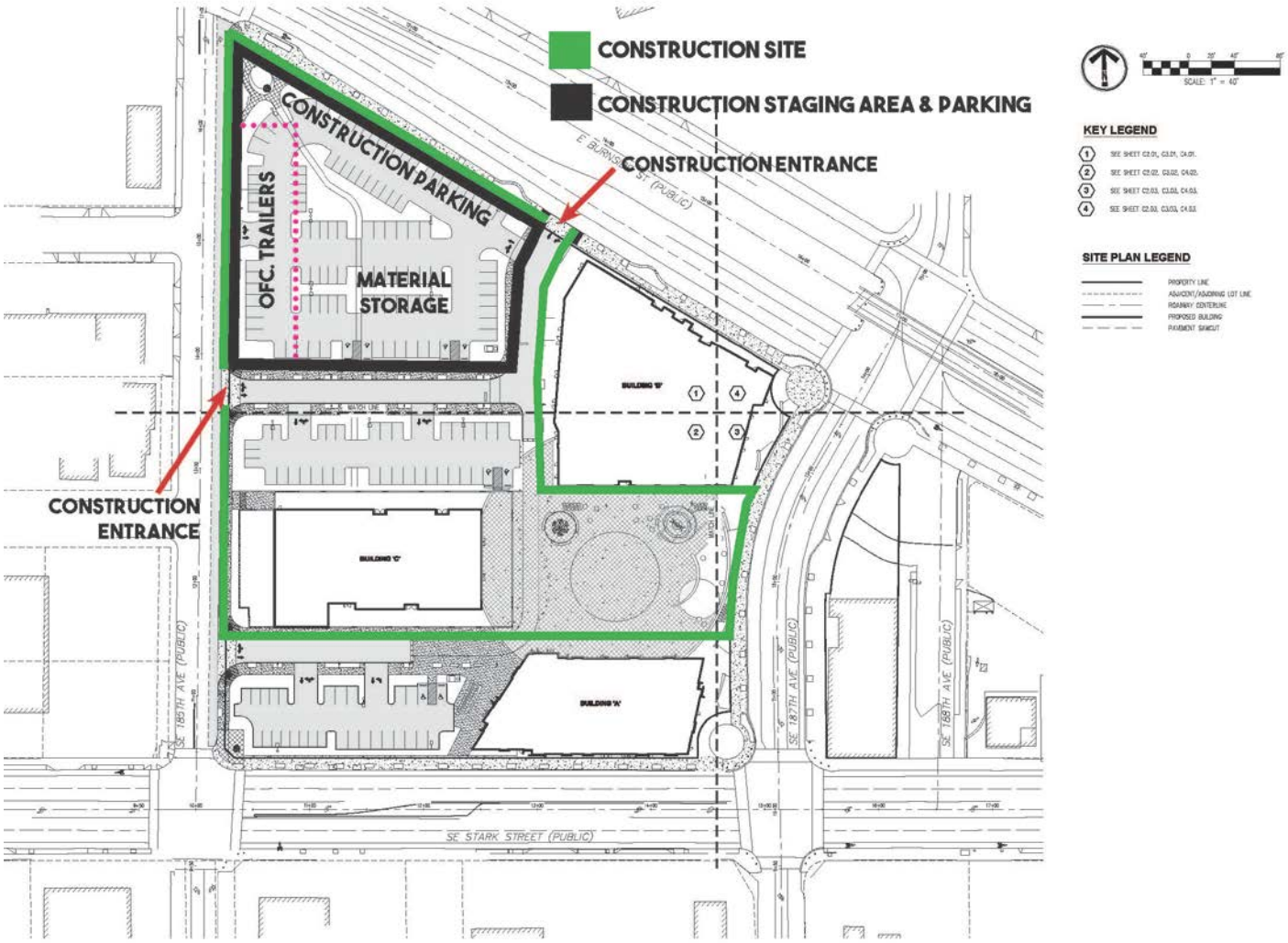
Approved as to Form:

_____

Kevin McConnell
Gresham City Attorney

EXHIBIT A

Access Area/Site Plan



Attachment F

GRESHAM
REDEVELOPMENT COMMISSION

AMENDMENT NO. 1 TO ACCESS AREA LICENSE AGREEMENT

THIS AMENDMENT NO. 1 TO ACCESS AREA LICENSE AGREEMENT ("Amendment") is entered into between the GRESHAM REDEVELOPMENT COMMISSION ("Licensor") and ROCKWOOD RISING MANAGEMENT, LLC ("Licensee").

RECITALS

WHEREAS, Licensor and Licensee entered into that certain Access Area License Agreement ("License") dated May 8, 2019, and

WHEREAS, Licensor and Licensee desire to amend the term of the License as applicable to the real property described as Parcel 1, Partition Plat No. 2019-53, Gresham, Multnomah County, Oregon ("Phase II Rockwood Rising Property"), pursuant to the terms and conditions set forth in this Amendment.

NOW, THEREFORE, Licensor and Licensee agree as follows:

1. Section 2 of the License shall be replaced by the following language:

> "2. TERM. The term of this License shall begin upon execution of the Phase I Rockwood Rising Ground Lease, and shall terminate (i) upon the execution of the Phase II Rockwood Rising Ground Lease, with respect to the Phase II Rockwood Rising Property land only, and (ii) upon occupancy of the Phase I Rockwood Rising project (with respect to the remaining Access Area).

IN WITNESS WHEREOF, each of the parties has caused its authorized representative to execute duplicate original counterparts of this Amendment this _____ day of _____, 2020.

LICENSOR

Gresham Redevelopment Commission

_____

Emily Bower,
Interim Executive Director

Approved as to Form:

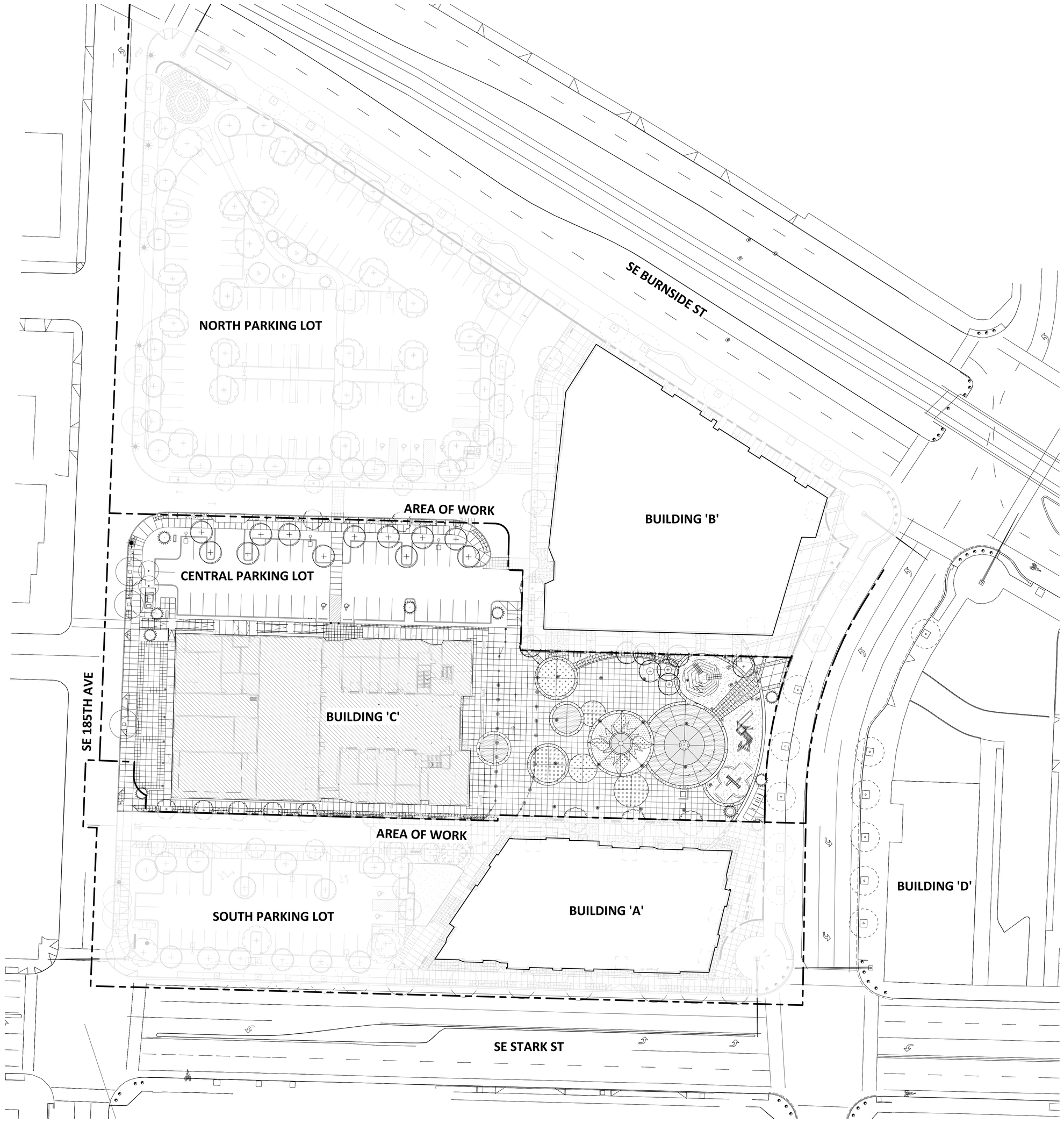
_____

Kevin McConnell, Gresham City Attorney

LICENSEE

Rockwood Rising Management, LLC

By: _____
Roy Kim, Manager



1 A-101 ARCHITECTURAL SITE PLAN
1/32" = 1'-0"

Site Plan

GENERAL NOTES - SITE PLAN

1. FIELD VERIFY ALL INFORMATION PRIOR TO CONSTRUCTION. IF SITE CONDITIONS VARY FROM CONTRACT DOCUMENTS, NOTIFY ARCHITECT IN WRITING IMMEDIATELY.
2. COORDINATE FINAL GRADE TO PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING (5).
3. SEE CIVIL AND LANDSCAPE DRAWINGS FOR MORE INFORMATION.

SITE PLAN LEGEND

EXISTING TREE TO REMAIN

EXISTING TREE TO BE REMOVED

YBA architects
123 NW 2ND AVE SUITE 204 - PORTLAND, OR 97209
T: 971.888.5107 - E-MAIL: INFO@YB-A.COM

STAMP

REGISTERED ARCHITECT
MATTHEW M. BROWN
PORTLAND, OREGON
STATE OF OREGON

REVISION NO. DATE

TRUE NORTH PLAN NORTH

DOWNTOWN ROCKWOOD

RKM DEVELOPMENT
458 SE 185TH AVE, PORTLAND, OR 97233

ISSUANCE
PERMIT SUBMISSION

PROJECT NUMBER
150546

DATE
04.28.2020

FULL SHEET SIZE
30 X 42

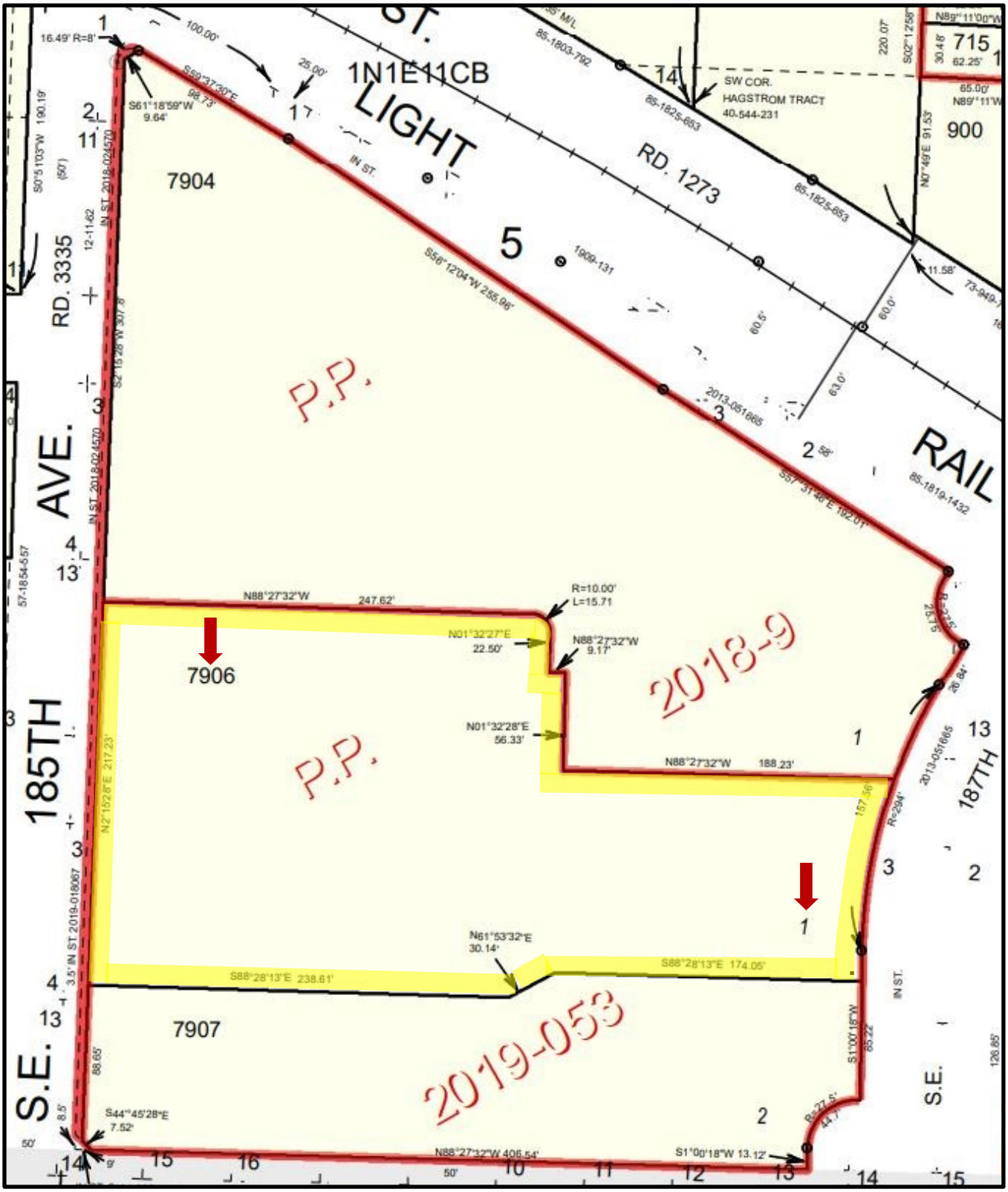
DRAWING TITLE
ARCHITECTURAL SITE PLAN

SHEET NUMBER
A-101

Attachment G (Part 1)

Legal Description

Parcel 1, PARTITION PLAT NO. 2019-53, in the City of Gresham, County of Multnomah and State of Oregon, according to the plat recorded October 7, 2019, as Document No. 2019-107204.



Rockwood Rising

Development Budget

Building C

Building	Building Type	Building Size Square Ft	No. of Stories	NOI	Cap Rate	Estimated Value	Value Per SF
Building C	Retail/Community	39,337	3	$551,881.15	6.25%	$8,830,098	$224.47

Estimated Cost

Hard Cost:			**Cost Per SF**	
Land	$	-	$	-
Site Work	$	1,681,907	$	42.76
Building	$	7,100,000	$	180.49
Retail TI	$	1,810,000	$	46.01
Subtotal Hard Cost	$	10,591,907	$	269.26
Hard Cost Contingency	$	501,951	$	12.76
Total Hard Cost	**$**	**11,093,858**	**$**	**282.02**
Soft Cost:				
Design Permit Fees	$	1,366,173	$	34.73
Leasing Commission	$	-	$	-
Loan Fee	$	-	$	-
Permanent Financing	$	-	$	-
Legal & Closing	$	60,000	$	1.53
Real Property Taxes	$	-	$	-
Financing Cost	$	275,000	$	6.99
NMTC Required Reserve	$	340,500	$	8.66
NMTC Transaction Exp	$	500,000	$	12.71
Developer Fee	$	1,372,058	$	34.88
Subtotal Soft Cost	$	3,913,731	$	99.49
Soft Cost Contingency	$	85,059	$	2.16
Total Soft Cost	$	3,998,790	**$**	**101.65**
Total Cost	**$**	**15,092,648**	**$**	**383.68**
Value		**$8,830,098**		**$224.47**
Loan to Value		65%		
Loan to Cost Ratio		38%		
Funding Source:				
Construction Loan	$	5,700,000	$	144.90
GRDC	$	4,244,728	$	107.91
Metro Grant	$	300,000	$	7.63
NMTC	$	2,847,920	$	72.40
Developer Equity	$	2,000,000	$	50.84
Total Sources of Funds	**$**	**15,092,648**	**$**	**383.68**

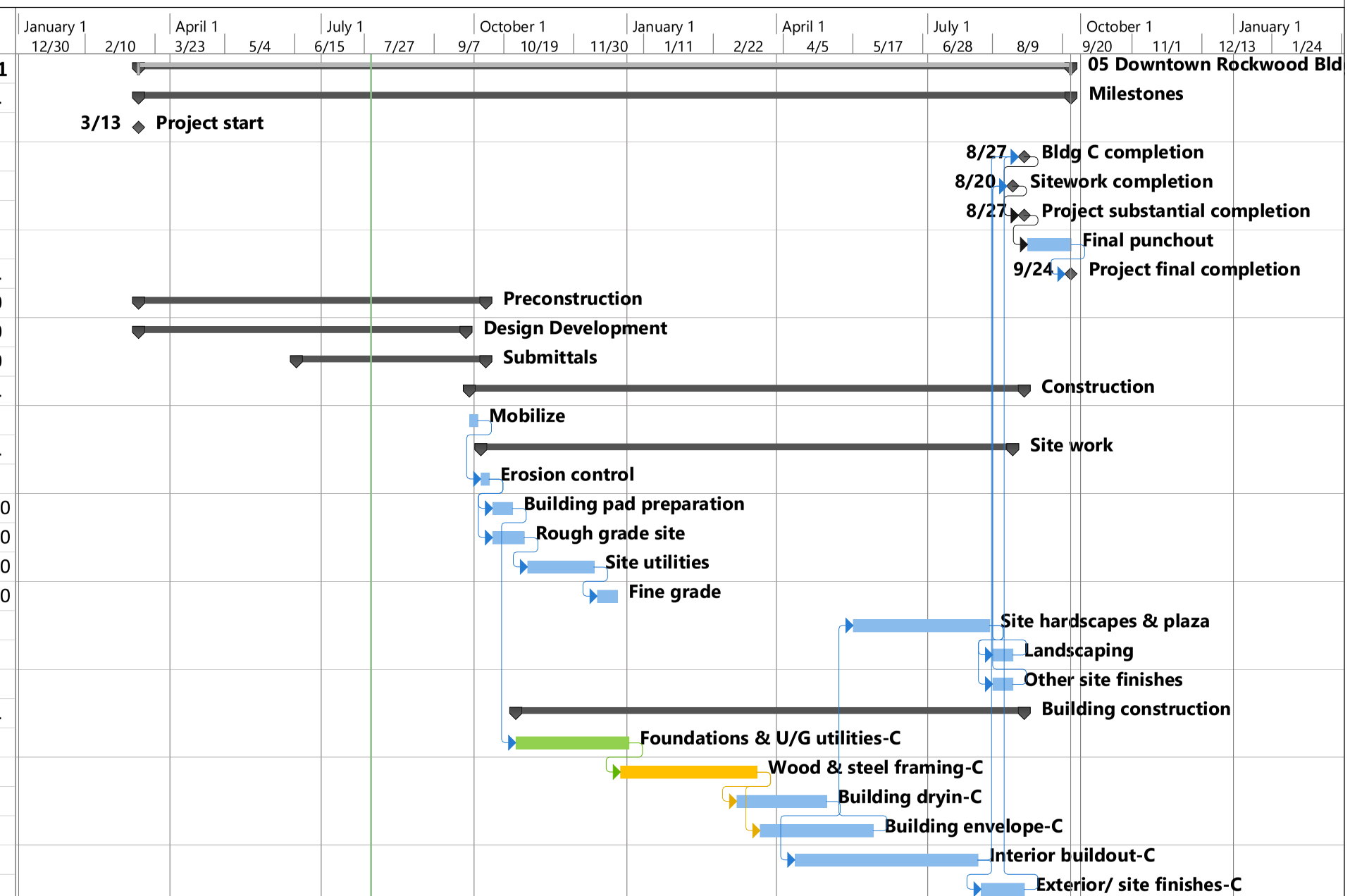
*subject to change.

Rockwood Market Hall

Draft Master Schedule

July 31, 2020

ID		Task Name	Duratio	Start	Finish
0		**05 Downtown Rockwood Bldg C Master Schedule**	**398 d**	**3/13/20**	**9/24/21**
1		**Milestones**	**398 d**	**3/13/20**	**9/24/21**
2	✓	Project start	0 d	3/13/20	3/13/20
3		Bldg C completion	0 d	8/27/21	8/27/21
4		Sitework completion	0 d	8/20/21	8/20/21
5		Project substantial completion	0 d	8/27/21	8/27/21
6		Final punchout	20 d	8/30/21	9/24/21
7		**Project final completion**	0 d	9/24/21	**9/24/21**
8		**Preconstruction**	**146 d**	**3/13/20**	**10/7/20**
9		**Design Development**	**138 d**	**3/13/20**	**9/25/20**
17		**Submittals**	**80 d**	**6/16/20**	**10/7/20**
19		**Construction**	**240 d**	**9/28/20**	**8/27/21**
20		Mobilize	5 d	9/28/20	10/2/20
21		**Site work**	**230 d**	**10/5/20**	**8/20/21**
22		Erosion control	5 d	10/5/20	10/9/20
23		Building pad preparation	10 d	10/12/20	10/23/20
24		Rough grade site	15 d	10/12/20	10/30/20
25		Site utilities	30 d	11/2/20	12/11/20
26		Fine grade	10 d	12/14/20	12/25/20
27		Site hardscapes & plaza	60 d	5/17/21	8/6/21
28		Landscaping	10 d	8/9/21	8/20/21
29		Other site finishes	10 d	8/9/21	8/20/21
30		**Building construction**	**220 d**	**10/26/20**	**8/27/21**
31		Foundations & U/G utilities-C	50 d	10/26/20	1/1/21
32		Wood & steel framing-C	60 d	12/28/20	3/19/21
33		Building dryin-C	40 d	3/8/21	4/30/21
34		Building envelope-C	50 d	3/22/21	5/28/21
35		Interior buildout-C	80 d	4/12/21	7/30/21
36		Exterior/ site finishes-C	20 d	8/2/21	8/27/21



Attachment H (Part 2)

ADDITIONAL COSTS SINCE JUNE 5, 2018 MASTER LIST COSTS
PAID BY THE GRESHAM REDEVELOPMENT COMMISSION ON BEHALF OF ROCKWOOD RISING MANAGEMENT, LLC
TO BE DEDUCTED FROM SECOND PAYMENT TO ROCKWOOD RISING MANAGEMENT, LLC
(EXCLUDING BUILDING D)

JUNE 5, 2018 MASTER LIST ITEM # OR NEW ITEM #	DATE	DESCRIPTION	CATEGORY	COST (PREDEVELOPMENT OR OTHER)	STATUS	SERVICE PROVIDER	NOTES/COMMENTS	DUE DILIGENCE	FORMAT
37 (additional costs)	8/1/16 (date initial work commenced)	Market Hall Business Plan	Consulting	$ 2,485.00	Complete	ECONorthwest	Develop Market Hall Business Plan. Cost increase from $40,000 to $42,485. **See Item #78 for Market Hall Business Plan document.**	Y	E
48 (additional costs)	6/2/17 (date initial work commenced)	Voluntary Cleanup Letter Agreement (VCA) with DEQ and Issuance of "No Further Action" Determination	Environmental	$ 16,149.13	Complete	Oregon Dept. of Environmental Quality	Environmental oversite services from June 2, 2017 through January 31, 2018 at $13,547.27 and from May 1, 2018 through June 30, 2019 at $16,149.13, for a total cost of $29,696.40. (No services were provided from February 2018 through April 2018.) Services are now completed. Oregon DEQ issued a "No Further Action Determination" letter for Rockwood Rising in Gresham (ECSI #6202) on 12/6/18. Other documents DEQ issued were: 1) Approval of Sampling & Analysis Plan; and 2) Approval of Site Characterization Report.	Y	E
53 (additional costs)	8/28/17 (date initial work commenced)	Environmental Site-Preparation Services	Environmental	$ 22,559.80	Complete	Environmental Works	Septic Evaluation Application process with City of Portland ($5,400) and investigate and decommission three buried site features (UIC #100, RP#1, UIC#101) discovered during site excavation, trenching, grading, and grubbing activities for Bldg. A ($17,159.80), for a total cost of $22,559.80. Contract price was increased from $331,750 to $377,150 to cover the additional services described above, leaving an unspent/available balance on the contract of $22,840.20. "Sampling and Analysis Plan (SAP)" document previously provided to RKm on a thumb drive (Item #53 - 2017-10-06 SAP). Additional completed reports: 1) Stormwater UICs and Seepage Pits Closure; and Site Characterization Report; 2) Septic System Decommissioning Report with Septic Evaluation Application; 3) Septic System Decommissioning Follow-Up Report; 4) Monitoring Wells Decommissioning Completion Report; and 5) Additional Stormwater UICs Decommission Report.	Y	E
56 (additional costs)	11/1/17 (date initial work commenced)	Grocery/Marketplace Retail Business Plan	Consulting	$ 4,000.00	Complete	Monica Cuneo	Develop Grocery/Marketplace Retail Business Plan. Cost increase from $8,000 to $12,000. **See item #78 for Market Hall Business Plan document.**	Y	E
NEW #74	5/31/18	Septic Evaluation Application	Environmental	$ 644.00	Complete	City of Portland Bureau of Development Services	Needed to complete septic systems decommissioning process. City of Portland Bureau of Development. **See Item #80 for Decommissioning Waiver Application.** **See Item #81 for Cesspool Decommissioning Permit.**	Y	E
NEW #75	7/11/18	Memorandum of Agreement of a Land Development Agreement (Rockwood Rising LLC)	Land Use	$ 92.00	Complete	Mult. Co. Recorder's Office	Recording of Rockwood Rising LLC and Gresham Redevelopment Commission. Mult. Co. recording #2018-072831.	Y	E
NEW #76	9/1/18	Graphic Design Services for Market Hall Business Plan	Consulting	$ 2,000.00	Complete	Sonya Bastendorff	Graphic design services for Market Hall Business Plan. **See Item #78 for Market Hall Business Plan document.**	Y	E
NEW #77	10/26/18	IMPLAN Description for Rockwood Rising NMTC Job Projections	Consulting	$ 240.00	Complete	ECONorthwest	Memorandum on IMPLAN Description for Rockwood Rising NMTC Job Projections.	Y	E
NEW #78	10/30/18	Market Hall Business Plan Document	Consulting	$ -	Complete	Gresham Redevelopment Commission	Market Hall Business Plan document assembly by Gresham Redevelopment Commission staff. Consultants who provided content for the business plan are ECONorthwest, Monica Cuneo and Sonya Bastendorff. **See Item #s 37, 56 and 76.**	Y	E
NEW #79	11/28/18	Partition Pre-Application	Land Use	$ 1,509.00	Complete	City of Gresham Dept. of Urban Design and Planning	2-lot land partition pre-application to split off Bldg. C from Partition Plat 2018-9, Parcel 2. End result is land division possible. Pre-application #18-26000456. **See Item #82 for Partition Application.**	Y	E

Attachment I (Part 1)

ADDITIONAL COSTS SINCE JUNE 5, 2018 MASTER LIST COSTS
PAID BY THE GRESHAM REDEVELOPMENT COMMISSION ON BEHALF OF ROCKWOOD RISING MANAGEMENT, LLC
TO BE DEDUCTED FROM SECOND PAYMENT TO ROCKWOOD RISING MANAGEMENT, LLC
(EXCLUDING BUILDING D)

JUNE 5, 2018 MASTER LIST ITEM # OR NEW ITEM #	DATE	DESCRIPTION	CATEGORY	COST (PREDEVELOPMENT OR OTHER)	STATUS	SERVICE PROVIDER	NOTES/COMMENTS	DUE DILIGENCE	FORMAT
NEW #80	1/8/19	Cesspool Decommissioning Waiver Application to City of Portland Bureau of Development Services	Environmental	$ 100.00	Complete	Mult. Co. Recorder's Office	Recording of Decommissioning Waiver between City of Portland Bureau of Development Services Site Development and Gresham Redevelopment Commission for Lots 1 and 2 on Partition Plat # 2018-9 (Property ID #s 1N3E32CC-07904 and 1N3E32CC-07905). Mult. Co. recording #2019-002085. **See Item #74 for Septic Evaluation Application.** **See Item #81 for Cesspool Decommissioning Permit.**	Y	E
NEW #81	1/11/19	Cesspool Decommissioning Permit	Enviornmental	$ -	Complete	City of Portland Bureau of Development Services	Cesspool Decommissioning Permit. **See Item #74 for Septic Evaluation Application.** **See Item #80 for Cesspool Decommissioning Waiver Application.**	Y	E
NEW #82	2/11/19	Partition Application	Land Use	$ 7,889.00	In Process	City of Gresham Dept. of Urban Design and Planning	2-lot land partition application to split off Bldg. C from southern parcel. Application #19-26000050. Staff Report issued 04/22/19. Notice of Land Use Decision issued 04/22/19. **See Item #79 for Partition Pre-Application.**	Y	E
NEW #83	4/22/19	Economic Impact Analysis of First Phase of Rockwood Rising Project	Consulting	$ 2,587.50	Complete	ECONorthwest	Economic Impact Analysis of first phase of Rockwood Rising project, including analysis of total project economic value of goods and services; tenants value of good and services; cost of providing workforce training and development; and methodology, assumptions and metrics.	Y	E
NEW #84	11/15/19	Water Quality Underground Injection Control (UIC) Annual Invoice	Environmental	$ 642.00	Complete	Oregon Dept. of Environmental Quality - Water Quality	First annual invoice for 6 UICs located at "Facility Name" Rockwood Rising, 18604 - 18688 E. Burnside St. UIC Fee is $107 per UIC. UIC Category is "3-Large Parking Lot (1000 trips/day)." UIC number is #15800.	Y	E
NEW #85	3/28/20	Title report	Title	$ 350.00	Complete	Chicago Title	Ownership and Encumbrances title report for 458 SE 185th Ave., Portland, OR 97233 needed by Urban Design & Planning for the Modification of Conditions submission related to the redesign of the Market Hall. (Invoice #472520002191-1).	Y	E
TOTAL TO DEDUCT FROM SECOND PAYMENT TO RRM, LLC:				**$ 61,247.43**					

ADDITIONAL COSTS SINCE JUNE 5, 2018 MASTER LIST COSTS
PAID BY THE GRESHAM REDEVELOPMENT COMMISSION ON BEHALF OF ROCKWOOD RISING MANAGEMENT, LLC
TO BE DEDUCTED FROM SECOND PAYMENT TO ROCKWOOD RISING MANAGEMENT, LLC
(BUILDING D ONLY)

JUNE 5, 2018 MASTER LIST ITEM # OR NEW ITEM #	DATE	DESCRIPTION	CATEGORY	COST (PREDEVELOPMENT OR OTHER)	STATUS	SERVICE PROVIDER	NOTES/COMMENTS	DUE DILIGENCE	FORMAT
57 (cost decrease)	12/11/17 (date commenced)	Replace HVAC Unit	Capital Repair	$ (800.00)	Complete	Just Right Heating and Cooling	Rockwood Community Office Bldg. (RCO) $800 rebate received after payment of $12,025 invoice to replace HVAC unit. Rebate brings cost down to $11,225.	N	E
64 (cost decrease)	3/6/18 (date commenced)	Replace HVAC Unit	Capital Repair	$ (800.00)	Complete	Just Right Heating and Cooling	Rockwood Community Office Bldg. (RCO) $800 rebate received after payment of $11,205 invoice to replace HVAC unit. Rebate brings cost down to $10,405.	N	E
NEW #71	8/29/18	Replace Toilet	Capital Repair	$ 546.00	Complete	Wolcott Services Plumbing	Replaced broken toilet in the 478 SE 187th Ave. suite in the RCO Bldg.	N	E
NEW #72	3/7/19	Replace HVAC Unit	Capital Repair	$ 13,775.00	Complete	Just Right Heating and Cooling	Replace RTU (HVAC) unit for the 478 SE 187th Ave. suite in the RCO Bldg.	N	E
NEW #73	3/13/19	Electrical for HVAC Unit Replacement	Capital Repair	$ 702.78	Complete	Christenson Electric	Electrical work required for replacement of RTU (HVAC) unit for the 478 SE 187th Ave. suite in the RCO Bldg. (disconnect electrical from old unit and connect electrical to new unit).	N	E
TOTAL TO DEDUCT FROM SECOND PAYMENT TO RRM, LLC:				**$ 13,423.78**					

Revised 08/04/20 - C. Turley, City of Gresham Urban Renewal Program Technician

Attachment I (Part 2)

ARTICLES OF INCORPORATION
OF
ROCKWOOD MARKET HALL

The undersigned individual 18 years of age or older adopts the following Articles of Incorporation under the Oregon Nonprofit Corporation Act:

ARTICLE 1
Name

The name of the corporation is ROCKWOOD MARKET HALL (the "Corporation").

ARTICLE 2
Type and Duration

The Corporation is a nonprofit public benefit corporation. The duration of the Corporation shall be perpetual.

ARTICLE 3
No Members

The Corporation will not have members.

ARTICLE 4
Purposes and Powers

4.1 General Purpose. The Corporation is organized and must be operated exclusively for the benefit of, the City of Gresham, Oregon (the "City of Gresham").

4.2 Specific Purpose. The Corporation is intended to be a Type III functionally integrated supporting organization within the meaning of Section 509(a)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable Treasury Regulations promulgated thereunder, that is operated in connection with City of Gresham.

4.3 Net Earnings. No part of the Corporation's net earnings may inure to the benefit of any private shareholder or individual.

4.4 Influencing Legislation. No substantial part of the Corporation's activities may consist of carrying on propaganda, or otherwise attempting, in influence legislation.

4.5 Political Campaigns. The Corporation may not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

4.6 General Restrictions. Notwithstanding any provision in these Articles of Incorporation to the contrary, no part of the Corporation's assets may be used in any manner, and the Corporation may not participate in any activity, that would cause the Corporation to cease to qualify as an exempt organization under Section 501(c)(3) of the Code.

ARTICLE 5
Liability of Directors and Uncompensated Officers

The personal liability of a director or uncompensated officer to the Corporation or its members for monetary damages for conduct as a director or officer is eliminated to the fullest extent permitted by law.

ARTICLE 6
Indemnification

6.1 Indemnification. The Corporation will indemnify any individual made a party to any proceeding because the individual is or was a director or officer of the Corporation against liability incurred in the proceeding to the fullest extent permitted by law.

6.2 Advance for Expenses. The Corporation will pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to any proceeding in advance of final disposition of the proceeding to the fullest extent permitted by law. Any advances hereunder will be made without regard to the person's ability to repay such advances.

ARTICLE 7
Distribution of Assets on Dissolution

Upon dissolution, the Corporation must distribute its net assets to City of Gresham or such other city agency as the City Manager of the City of Gresham (the "City Manager") may, from time to time, designate**,** or to one or more organizations that then qualifies for exemption from Federal income tax under Section 501(c)(3) of the Code as may be determined by the **C**ity Manager. Each organization to which any assets of the Corporation are distributed incident to the Corporation's dissolution must be organized and operated in a manner which is consistent with the charitable purposes served by the Corporation or City of Gresham . Any such assets not so disposed shall be disposed of by the Circuit Court of the State of Oregon for Multnomah County to one or more organizations that then qualifies for exemption from Federal income tax under Section 501(c)(3) of the Code, as such Court shall determine.

ARTICLE 8
Registered Office and Registered Agent

The address of the Corporation's initial registered office and the name of the Corporation's initial registered agent at that office are:

City Attorney's Office
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Attn: Kevin R. McConnell

ARTICLE 9
Incorporator

The name and address of the incorporator is:

Alan L. Pasternack
Law Office of Alan L. Pasternack
6029 NE 29th Ave.
Portland, OR 97211

ARTICLE 10
Mailing Address for Notices

The mailing address to which notices may be mailed is:

City Attorney's Office
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Attn: Kevin R. McConnell

I declare as an authorized signer, under penalty of perjury, that this document does not fraudulently conceal, obscure, alter, or otherwise misrepresent the identity of any person including officers, directors, employees, members, managers or agents. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

Dated: August __, 2020

_____
Alan L. Pasternack, Incorporator

BYLAWS
OF
ROCKWOOD MARKET HALL

1. GENERAL.

1.1 **Name and Purpose.** The name of this organization is ROCKWOOD MARKET HALL (the "Corporation"), which has been organized as a public benefit corporation under the Oregon Nonprofit Corporation Act. The Corporation is organized and must be operated exclusively for the benefit of the City of Gresham, Oregon (the "City of Gresham") to reduce the burdens of government.

1.2 **Specific Purpose.** The Corporation is intended to be a Type III functionally integrated supporting organization within the meaning of Section 509(a)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable Treasury Regulations promulgated thereunder, that is operated in connection with the City of Gresham.

1.3 **No Private Benefit.** No part of the income or assets of the Corporation shall inure to the benefit of any private individual or member, and the Corporation shall have no capital stock, its object and purpose being solely of a charitable and benevolent nature, and not for individual pecuniary gain or profit to its members. Members of the Board of Directors shall receive no compensation for their service as a director; this shall not be construed to preclude any Director from serving the Corporation in some other capacity and receiving compensation thereof.

1.4 **Relationship with City of Gresham**. The Board of Directors shall (i) ensure that the Corporation provides the City of Gresham, acting through City Manager of the City of Gresham (the "City Manager"), with an annual notification including written notice describing the type and amount of support provided by the Corporation to the City of Gresham in the taxable year preceding the year in which such notice is delivered, a copy of the Corporation's most recent Form 990, and the Corporation's governing documents as in effect on the date of such notice; and (ii) at all times maintain a close and continuous working relationship with the City of Gresham.

1.5 **Contributions from Controlling Donors.** The Corporation shall not accept any gifts or contributions from any controlling person as described in Treasury Regulations Section 1.509(a)-4(f)(5)(i).

2. CORPORATE OFFICES.

The registered office of the Corporation shall be located at:

City Attorney's Office
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Attn: Kevin R. McConnell

The Corporation may change the registered office and may also have offices at other places, either within or without the State of Oregon, as the Board of Directors may from time to time determine or as the business of the Corporation may require.

3. DIRECTORS.

3.1 **Powers.** The business affairs of the Corporation shall be managed by its Board of Directors, which may exercise all such powers of the Corporation and do all other lawful acts that are not prohibited or directed or required to be performed by others under the statutes of the State of Oregon, the Articles of Incorporation, or these Bylaws.

3.2 **Number and Qualifications of Directors.** The Board of Directors must consist of three (3) or more individuals. At all times, one of the Directors (the "Designated Director") shall be such person as may be designated by the City Manager, and the remaining two (2) Directors (the "Independent Directors") shall be individuals who are not then officers, directors, or employees of the City of Gresham.

3.3 **Election and Term of Directors.**

3.3.1 The initial Board of Directors shall be selected by the Incorporator, subject to the requirements of Section 3.2 above. Thereafter the Independent Directors shall be selected by the Board of Directors.

3.3.2 The term of any Designated Director shall end on the earlier of his or her resignation from the board, or upon his or her removal by the City Manager**.**

3.3.3 The term of the First Independent Director, as designated by the Incorporator, shall end at the adjournment of the second annual meeting of the Board of Directors; and the term of the Second Independent Director, as designated by the Incorporator, shall end at the adjournment of the third annual meeting of the Board of Directors. Thereafter, each Independent Directors shall be elected by the Board of Directors and shall serve for a term of two (2) years or upon his or her earlier removal or resignation.

3.4 **Resignation and Removal of Directors**. A director may resign at any time by delivering written notice to the Board of Directors. A resignation is effective when the notice is effective under ORS 65.034. A director, other than a Designated Director, may be removed, with or without cause, by the vote of two-thirds of the directors then in office. A Designated Director may only be removed by the City Manager**.**

3.5 **Vacancies.** If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of directors, the Board of Directors may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office. If a vacancy occurs with respect to a seat held by an Independent Director, such vacancy shall be filled by an individual appointed by the remaining Directors. If for any reason all Independent Director seats are vacant at the same time, such vacancies shall be filled by individuals appointed by the Designated Director. Any individuals appointed to serve as an Independent Director must meet the requirements to be an Independent Director as set forth in Section 3.2 above. The term of an Independent Director appointed to fill a vacancy in the office of an Independent Director shall expire at the end of the unexpired term which such appointed Independent Director is filling.

3.6 **Annual Meeting of Directors.** The annual meeting of the Board of Directors shall be held with or without notice on the third Thursday of September of each year at the Offices of the City Attorney's Office for the City of Gresham or at such other time and place as may be determined by the chair of the Board of Directors.

3.7 **Notice for Directors Meetings.** Special meetings of the Board of Directors shall be called by the chair or when requested in writing by two (2) or more directors. Notice of the special meeting shall be given to each director either in person or by mail, or e-mail and must be received by the director not less than two (2) business days prior to the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the Board of Directors need be specified in the notice or waiver of notice of such meeting.

3.8 **Quorum for Directors Meetings.** A majority of the directors then serving on the Board of Directors shall constitute a quorum for the transaction of business at any meeting. The act of a majority of the directors then serving on the Board of Directors shall be the act of the Board of Directors. The foregoing notwithstanding, any transaction between the Corporation and the City of Gresham must be approved by a majority of Independent Directors.

3.9 **Assent Presumed – Procedures for Dissent or Abstention**. In accordance with ORS 65.351(4), a director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken is presumed to have assented to the action taken unless the director's dissent or abstention is entered in the minutes of the meeting or unless the director delivers written notice of his or her dissent or abstention to such action to the presiding officer of the meeting before the adjournment thereof, Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

3.10 **Action without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting as provided in Section 6 hereof.

3.11 **Use of Communications Equipment.** The Board of Directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through, use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

3.12 **No Compensation.** The members of the Board of Directors of this Corporation shall serve without compensation.

4. COMMITTEES.

4.1 **Executive Committee**.

4.1.1 If the Board of Directors ever has more than five (5) members, then the Board of Directors may appoint from among its members an Executive Committee of not less than three (3) members. The Executive Committee shall have such powers and shall perform such duties as may be delegated and assigned to the Executive Committee from time to time by the Board of Directors, except as provided in the Oregon Nonprofit Corporation Act. A majority of the members of the Executive Committee may fix its rules of procedure.

4.1.2 All actions taken by the Executive Committee shall be by a majority of those serving on the committee if taken at a meeting or by unanimous written approval if taken without a meeting in accordance with Section 6 hereof. The Executive Committee shall keep records of its activities and proceedings as it shall deem appropriate. All actions by the Executive Committee shall be reported to the Board of Directors at the meeting succeeding such action and shall be subject to revision, alteration and approval by the Board of Directors; provided, however, that no rights or acts of third parties shall be affected by such revision or alteration.

4.1.3 Meetings of the Executive Committee shall be called, from time to time at the direction and upon the request of any member thereof. Notice of such meetings, unless waived, shall in each instance be given to each member of the Executive Committee at least one day before the meeting, either orally or in writing. Vacancies in the membership of the Executive Committee shall be filled by the Board of Directors at a special meeting called for that purpose or at a regular meeting.

4.2 **Other Committees.** The Board of Directors may, from time to time, appoint other committees for such purposes as designated by the Board of Directors. Each committee shall have such powers and shall perform such duties as may be delegated and assigned to the committee by the Board of Directors, except such powers as are prohibited under the Oregon Nonprofit Corporation Act. However, all matters transacted by a committee in the name of the Corporation shall be submitted to and ratified by the Board of Directors at its next regular or special meeting. Membership of any such committee shall include at least two (2) members of the Board of Directors. All meetings

of, and any actions taken by any such committees shall be conducted or taken in accordance with the provisions of Section 4.1 applicable to an Executive Committee.

5. NOTICE.

5.1 **Effectiveness of Notice.** Wherever notice is required in these Bylaws, such notice may be oral or written unless otherwise specified for a particular kind of notice. Notice may be communicated in person, by telephone, facsimile transmission, email, or other form of wire or wireless communication, by mail or private carrier, including publication in a newsletter or similar document mailed to a director's address, and except as otherwise provided herein, shall be effective as provided in ORS 65.034

5.2 **Waiver of Notice**.

5.2.1 A director may at any time waive any notice required by these Bylaws, the Articles of Incorporation or the Oregon Nonprofit Corporation Act. The waiver must be in writing, be signed by the director entitled to the notice, specify the meeting for which the notice is waived and be filed with the minutes or corporation records.

5.2.2 A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director, at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

6. ACTION WITHOUT A MEETING.

6.1 **Directors' Actions.** Any actions required or permitted to be taken at the Board of Directors' meeting may be taken without a meeting if the action is taken by the unanimous consent of all members of the Board of Directors.

6.2 **Effectiveness of Action Without Meeting.** Actions taken under Article 6 shall be evidenced by one or more written consents describing the action taken, signed by each director and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this Article 6 is effective when the last director signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

6.2.1 For purposes of this Section 6,

(a) the term "written" includes a communication that is transmitted or received by electronic means;

(b) the term "sign" or "signed" includes an electronic signature;

(c) the term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities; and

(d) the term "electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

7. OFFICERS.

7.1 **Executive Officers.** The Corporation shall have three executive officers, consisting of a President, Secretary, and Treasurer, elected by the Board of Directors. The same individual may simultaneously hold more than one office in the Corporation, except the offices of President and Secretary. Their duties shall be as follows:

7.1.1 The **President** shall be the chief executive officer of the Corporation. In general, the powers and duties of the president shall be those ordinarily exercised or performed by the chief executive officers of a nonprofit corporation and such other powers and duties as may be assigned to the president by the Board of Directors. Without limiting the generality of the foregoing by this specification, the president shall see that the resolutions and directions of the Board of Directors are carried into effect. Except in those instances in which the authority to execute is expressly delegated to another officer or agent of the Corporation, or a different mode of execution is expressly prescribed by the Board of Directors or these Bylaws, the president may execute for the Corporation such documents as needed for the conduct of the Corporation's affairs in the ordinary course, as well as any deed, mortgages, leases, bonds, contracts, checks, notes or other documents which the Board of Directors has authorized to be executed, and he or she may accomplish such execution without a seal of the Corporation or either individually or with any other officer thereunto authorized by the Board of Directors, according to the requirements of the form of the document.

7.1.2 The **Secretary** shall have the responsibility for preparing minutes of the directors' meetings and for authenticating records of the Corporation. The secretary shall give notice of all meetings of the Board of Directors and committees as required under the provisions of the Oregon Nonprofit Corporation Act, the Articles of Incorporation and these Bylaws, and shall perform such other duties as the Board of Directors or the president may from time to time assign.

7.1.3 The **Treasurer** shall have custody of the Corporation's funds and securities that come into such officer's hands. When necessary or proper, the Treasurer may endorse or cause to be endorsed, in the name and on behalf of the Corporation, checks, notes, and other obligations for collection and shall deposit or cause to be deposited the same to the credit of the Corporation in such bank or banks or depositories and in such manner as

shall be designated and prescribed by the Board of Directors; may sign or cause to be signed all receipts and vouchers for payments made to the Corporation either alone or jointly with such other officer as may be designated by the Board of Directors; whenever required by the Board of Directors, shall render or cause to be rendered a statement of the cash account; shall enter or cause to be entered regularly in the Corporation's books to be kept by such officer for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; shall perform all acts incident to the position of Treasurer subject to the control of the Board of Directors; and shall, if required by the Board of Directors, give such bond for the faithful discharge of such officer's duties in such form as the Board of Directors may require.

7.2 **Subordinate Officers.** The Board of Directors may elect or appoint such other officers, assistant officers, agents, and other employees as it shall deem necessary or desirable. They shall hold their offices for such terms and shall have such authority and perform such duties as shall be determined by the Board of Directors.

7.3 **Compensation.** The salaries, if any, of all officers, employees and other agents of the Corporation shall be fixed by the Board of Directors. Unless otherwise specified by the Board of Directors, officers shall serve without compensation.

7.4 **Election of Officers.** The election of officers shall take place each year at the annual meeting of the Board of Directors. All officers, may, but need not be, members of the Board of Directors.

7.5 **Resignation of Officers.** An officer may resign by oral tender of resignation at any meeting of the Board of Directors or by giving written notice thereof to the Board of Directors. Such resignation shall take effect at the time specified and acceptance of such resignation shall not be necessary to make it effective.

7.6 **Removal of Officer.** Any officer, agent or other employee elected or appointed by the Board of Directors, may be removed by a majority vote of all the directors then serving on the board whenever in their judgment the best interests of the Corporation will be served thereby. Such removal shall be without prejudice to the contractual rights, if any, of the person so removed. If any position should become vacant for any reason, the vacancy shall be filled by the Board of Directors.

7.7 **Restoration of Corporate Property.** On the death, resignation, retirement or removal from office of any officer, agent or other employee, all books, papers, vouchers, money and any other property of whatever kind in their possession or under their control which belong to the Corporation shall be restored to the Corporation.

8. INDEMNIFICATION.

The Corporation shall indemnify its directors, officers, agents and employees for liability and related expenses to the full extent permitted by the Oregon Nonprofit Corporation Act.

9. CONFLICT OF INTEREST POLICY.

9.1 **Conflict of Interest Defined.** A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect financial interest. A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

9.1.1 An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;

9.1.2 A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or

9.1.3 A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

9.2 **Approval Process.** A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction is fair to the corporation at the time it was entered into or is approved as provided in accordance with this Section 9.2. A transaction in which a director has a conflict of interest may be approved:

9.2.1 By the vote of the Board of Directors or a committee of the Board of Directors if the material facts of the transaction and the director's interest are disclosed or known to the Board of Directors or committee of the Board of Directors; or

9.2.2 By obtaining approval of the:

(a) Attorney General of the State of Oregon; or

(b) The Circuit Court for the State of Oregon in an action in which the Attorney General is joined as a party.

9.3 **Votes Required for Approval.** For purposes of Section 9.2, a conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the Board of Directors or on the committee who have not direct or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction votes to authorize, approve or ratify the transaction, a quorum is present of the purpose of acting under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under Section 9.2.1 if the transaction is otherwise approved as provided in Section 9.2.

9.4 **Loans to directors and officers prohibited**. No loans shall be made by the Corporation to any officer or director. The directors of a corporation who vote for or

assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

10. LOANS.

No money shall be borrowed by the Corporation without authority of the Board of Directors, and for security purposes, the Board of Directors may authorize the execution and delivery of a mortgage or trust deed upon any of the real property belonging to the Corporation or the pledging of any of the personal property of the Corporation. Such authorization having been given, the president, executive director, or vice-president, if one is appointed, or such other person as may be authorized by the Board of Directors, shall execute in the name of the Corporation the authorized agreements, notes, trust deeds, pledges, and other documents, instruments and agreements related thereto.

11. CHECKS.

All checks of the Corporation shall be signed in such manner as the Board of Directors may, from time to time, designate.

12. AMENDMENTS.

These Bylaws may be amended or repealed, in whole or in part, by the affirmative vote of a majority of the Board of Directors at any regular or special meeting called for that purpose, provided that notice of the proposed amendment is given in the notice of the meeting or notice thereof is waived in writing by all directors.

These Bylaws of ROCKWOOD MARKET HALL, an Oregon nonprofit corporation (the "Corporation"), were approved by the Board of Directors of the Corporation as of the ____ day of August __, 2020.

By: _____
Name: _____
Title: _____

ARTICLES OF INCORPORATION
OF
ROCKWOOD FOOD

The undersigned individual 18 years of age or older adopts the following Articles of Incorporation under the Oregon Nonprofit Corporation Act:

ARTICLE 1
Name

The name of the corporation is ROCKWOOD FOOD (the "Corporation").

ARTICLE 2
Type and Duration

The Corporation is a nonprofit public benefit corporation. The duration of the Corporation shall be perpetual.

ARTICLE 3
No Members

The Corporation will not have members.

ARTICLE 4
Purposes and Powers

4.1 General Purpose. The Corporation is organized and must be operated exclusively for the benefit of, the City of Gresham, Oregon (the "City of Gresham").

4.2 Specific Purpose. The Corporation is intended to be a Type III functionally integrated supporting organization within the meaning of Section 509(a)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable Treasury Regulations promulgated thereunder, that is operated in connection with City of Gresham.

4.3 Net Earnings. No part of the Corporation's net earnings may inure to the benefit of any private shareholder or individual.

4.4 Influencing Legislation. No substantial part of the Corporation's activities may consist of carrying on propaganda, or otherwise attempting, in influence legislation.

4.5 Political Campaigns. The Corporation may not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

4.6 General Restrictions. Notwithstanding any provision in these Articles of Incorporation to the contrary, no part of the Corporation's assets may be used in any manner, and the Corporation may not participate in any activity, that would cause the Corporation to cease to qualify as an exempt organization under Section 501(c)(3) of the Code.

ARTICLE 5
Liability of Directors and Uncompensated Officers

The personal liability of a director or uncompensated officer to the Corporation or its members for monetary damages for conduct as a director or officer is eliminated to the fullest extent permitted by law.

ARTICLE 6
Indemnification

6.1 Indemnification. The Corporation will indemnify any individual made a party to any proceeding because the individual is or was a director or officer of the Corporation against liability incurred in the proceeding to the fullest extent permitted by law.

6.2 Advance for Expenses. The Corporation will pay for or reimburse the reasonable expenses incurred by a director or officer who is a party to any proceeding in advance of final disposition of the proceeding to the fullest extent permitted by law. Any advances hereunder will be made without regard to the person's ability to repay such advances.

ARTICLE 7
Distribution of Assets on Dissolution

Upon dissolution, the Corporation must distribute its net assets to City of Gresham or such other city agency as the City Manager of the City of Gresham (the "City Manager") may, from time to time, designate**,** or to one or more organizations that then qualifies for exemption from Federal income tax under Section 501(c)(3) of the Code as may be determined by the **C**ity Manager. Each organization to which any assets of the Corporation are distributed incident to the Corporation's dissolution must be organized and operated in a manner which is consistent with the charitable purposes served by the Corporation or City of Gresham . Any such assets not so disposed shall be disposed of by the Circuit Court of the State of Oregon for Multnomah County to one or more organizations that then qualifies for exemption from Federal income tax under Section 501(c)(3) of the Code, as such Court shall determine.

ARTICLE 8
Registered Office and Registered Agent

The address of the Corporation's initial registered office and the name of the Corporation's initial registered agent at that office are:

City Attorney's Office
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Attn: Kevin R. McConnell

ARTICLE 9
Incorporator

The name and address of the incorporator is:

Alan L. Pasternack
Law Office of Alan L. Pasternack
6029 NE 29th Ave.
Portland, OR 97211

ARTICLE 10
Mailing Address for Notices

The mailing address to which notices may be mailed is:

City Attorney's Office
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Attn: Kevin R. McConnell

I declare as an authorized signer, under penalty of perjury, that this document does not fraudulently conceal, obscure, alter, or otherwise misrepresent the identity of any person including officers, directors, employees, members, managers or agents. This filing has been examined by me and is, to the best of my knowledge and belief, true, correct and complete. Making false statements in this document is against the law and may be penalized by fines, imprisonment, or both.

Dated: August __, 2020

_____
Alan L. Pasternack, Incorporator

Attachment K (Part 2)

BYLAWS
OF
ROCKWOOD FOOD

1. GENERAL.

1.1 **Name and Purpose.** The name of this organization is ROCKWOOD FOOD (the "Corporation"), which has been organized as a public benefit corporation under the Oregon Nonprofit Corporation Act. The Corporation is organized and must be operated exclusively for the benefit of the City of Gresham, Oregon (the "City of Gresham") to reduce the burdens of government.

1.2 **Specific Purpose.** The Corporation is intended to be a Type III functionally integrated supporting organization within the meaning of Section 509(a)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and the applicable Treasury Regulations promulgated thereunder, that is operated in connection with the City of Gresham.

1.3 **No Private Benefit.** No part of the income or assets of the Corporation shall inure to the benefit of any private individual or member, and the Corporation shall have no capital stock, its object and purpose being solely of a charitable and benevolent nature, and not for individual pecuniary gain or profit to its members. Members of the Board of Directors shall receive no compensation for their service as a director; this shall not be construed to preclude any Director from serving the Corporation in some other capacity and receiving compensation thereof.

1.4 **Relationship with City of Gresham**. The Board of Directors shall (i) ensure that the Corporation provides the City of Gresham, acting through City Manager of the City of Gresham (the "City Manager"), with an annual notification including written notice describing the type and amount of support provided by the Corporation to the City of Gresham in the taxable year preceding the year in which such notice is delivered, a copy of the Corporation's most recent Form 990, and the Corporation's governing documents as in effect on the date of such notice; and (ii) at all times maintain a close and continuous working relationship with the City of Gresham.

1.5 **Contributions from Controlling Donors.** The Corporation shall not accept any gifts or contributions from any controlling person as described in Treasury Regulations Section 1.509(a)-4(f)(5)(i).

2. CORPORATE OFFICES.

The registered office of the Corporation shall be located at:

City Attorney's Office
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Attn: Kevin R. McConnell

The Corporation may change the registered office and may also have offices at other places, either within or without the State of Oregon, as the Board of Directors may from time to time determine or as the business of the Corporation may require.

3. DIRECTORS.

3.1 **Powers.** The business affairs of the Corporation shall be managed by its Board of Directors, which may exercise all such powers of the Corporation and do all other lawful acts that are not prohibited or directed or required to be performed by others under the statutes of the State of Oregon, the Articles of Incorporation, or these Bylaws.

3.2 **Number and Qualifications of Directors.** The Board of Directors must consist of three (3) or more individuals. At all times, one of the Directors (the "Designated Director") shall be such person as may be designated by the City Manager, and the remaining two (2) Directors (the "Independent Directors") shall be individuals who are not then officers, directors, or employees of the City of Gresham.

3.3 **Election and Term of Directors.**

3.3.1 The initial Board of Directors shall be selected by the Incorporator, subject to the requirements of Section 3.2 above. Thereafter the Independent Directors shall be selected by the Board of Directors.

3.3.2 The term of any Designated Director shall end on the earlier of his or her resignation from the board, or upon his or her removal by the City Manager**.**

3.3.3 The term of the First Independent Director, as designated by the Incorporator, shall end at the adjournment of the second annual meeting of the Board of Directors; and the term of the Second Independent Director, as designated by the Incorporator, shall end at the adjournment of the third annual meeting of the Board of Directors. Thereafter, each Independent Directors shall be elected by the Board of Directors and shall serve for a term of two (2) years or upon his or her earlier removal or resignation.

3.4 **Resignation and Removal of Directors**. A director may resign at any time by delivering written notice to the Board of Directors. A resignation is effective when the notice is effective under ORS 65.034. A director, other than a Designated Director, may be removed, with or without cause, by the vote of two-thirds of the directors then in office. A Designated Director may only be removed by the City Manager**.**

3.5 **Vacancies.** If a vacancy occurs on the Board of Directors, including a vacancy resulting from an increase in the number of directors, the Board of Directors may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office. If a vacancy occurs with respect to a seat held by an Independent Director, such vacancy shall be filled by an individual appointed by the remaining Directors. If for any reason all Independent Director seats are vacant at the same time, such vacancies shall be filled by individuals appointed by the Designated Director. Any individuals appointed to serve as an Independent Director must meet the requirements to be an Independent Director as set forth in Section 3.2 above. The term of an Independent Director appointed to fill a vacancy in the office of an Independent Director shall expire at the end of the unexpired term which such appointed Independent Director is filling.

3.6 **Annual Meeting of Directors.** The annual meeting of the Board of Directors shall be held with or without notice on the third Thursday of September of each year at the Offices of the City Attorney's Office for the City of Gresham or at such other time and place as may be determined by the chair of the Board of Directors.

3.7 **Notice for Directors Meetings.** Special meetings of the Board of Directors shall be called by the chair or when requested in writing by two (2) or more directors. Notice of the special meeting shall be given to each director either in person or by mail, or e-mail and must be received by the director not less than two (2) business days prior to the meeting. Attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the Board of Directors need be specified in the notice or waiver of notice of such meeting.

3.8 **Quorum for Directors Meetings.** A majority of the directors then serving on the Board of Directors shall constitute a quorum for the transaction of business at any meeting. The act of a majority of the directors then serving on the Board of Directors shall be the act of the Board of Directors. The foregoing notwithstanding, any transaction between the Corporation and the City of Gresham must be approved by a majority of Independent Directors.

3.9 **Assent Presumed – Procedures for Dissent or Abstention**. In accordance with ORS 65.351(4), a director of a corporation who is present at a meeting of its board of directors at which action on any corporate matter is taken is presumed to have assented to the action taken unless the director's dissent or abstention is entered in the minutes of the meeting or unless the director delivers written notice of his or her dissent or abstention to such action to the presiding officer of the meeting before the adjournment thereof, Such right to dissent or abstain shall not apply to a director who voted in favor of such action.

3.10 **Action without a Meeting.** Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting as provided in Section 6 hereof.

3.11 **Use of Communications Equipment.** The Board of Directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through, use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

3.12 **No Compensation.** The members of the Board of Directors of this Corporation shall serve without compensation.

4. COMMITTEES.

4.1 **Executive Committee**.

4.1.1 If the Board of Directors ever has more than five (5) members, then the Board of Directors may appoint from among its members an Executive Committee of not less than three (3) members. The Executive Committee shall have such powers and shall perform such duties as may be delegated and assigned to the Executive Committee from time to time by the Board of Directors, except as provided in the Oregon Nonprofit Corporation Act. A majority of the members of the Executive Committee may fix its rules of procedure.

4.1.2 All actions taken by the Executive Committee shall be by a majority of those serving on the committee if taken at a meeting or by unanimous written approval if taken without a meeting in accordance with Section 6 hereof. The Executive Committee shall keep records of its activities and proceedings as it shall deem appropriate. All actions by the Executive Committee shall be reported to the Board of Directors at the meeting succeeding such action and shall be subject to revision, alteration and approval by the Board of Directors; provided, however, that no rights or acts of third parties shall be affected by such revision or alteration.

4.1.3 Meetings of the Executive Committee shall be called, from time to time at the direction and upon the request of any member thereof. Notice of such meetings, unless waived, shall in each instance be given to each member of the Executive Committee at least one day before the meeting, either orally or in writing. Vacancies in the membership of the Executive Committee shall be filled by the Board of Directors at a special meeting called for that purpose or at a regular meeting.

4.2 **Other Committees.** The Board of Directors may, from time to time, appoint other committees for such purposes as designated by the Board of Directors. Each committee shall have such powers and shall perform such duties as may be delegated and assigned to the committee by the Board of Directors, except such powers as are prohibited under the Oregon Nonprofit Corporation Act. However, all matters transacted by a committee in the name of the Corporation shall be submitted to and ratified by the Board of Directors at its next regular or special meeting. Membership of any such committee shall include at least two (2) members of the Board of Directors. All meetings

of, and any actions taken by any such committees shall be conducted or taken in accordance with the provisions of Section 4.1 applicable to an Executive Committee.

5. NOTICE.

5.1 **Effectiveness of Notice.** Wherever notice is required in these Bylaws, such notice may be oral or written unless otherwise specified for a particular kind of notice. Notice may be communicated in person, by telephone, facsimile transmission, email, or other form of wire or wireless communication, by mail or private carrier, including publication in a newsletter or similar document mailed to a director's address, and except as otherwise provided herein, shall be effective as provided in ORS 65.034

5.2 **Waiver of Notice**.

5.2.1 A director may at any time waive any notice required by these Bylaws, the Articles of Incorporation or the Oregon Nonprofit Corporation Act. The waiver must be in writing, be signed by the director entitled to the notice, specify the meeting for which the notice is waived and be filed with the minutes or corporation records.

5.2.2 A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director, at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to any action taken at the meeting.

6. ACTION WITHOUT A MEETING.

6.1 **Directors' Actions.** Any actions required or permitted to be taken at the Board of Directors' meeting may be taken without a meeting if the action is taken by the unanimous consent of all members of the Board of Directors.

6.2 **Effectiveness of Action Without Meeting.** Actions taken under Article 6 shall be evidenced by one or more written consents describing the action taken, signed by each director and included in the minutes or filed with the corporate records reflecting the action taken. Action taken under this Article 6 is effective when the last director signs the consent, unless the consent specifies an earlier or later effective date. A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

6.2.1 For purposes of this Section 6,

(a) the term "written" includes a communication that is transmitted or received by electronic means;

(b) the term "sign" or "signed" includes an electronic signature;

(c) the term "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities; and

(d) the term "electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

7. OFFICERS.

7.1 **Executive Officers.** The Corporation shall have three executive officers, consisting of a President, Secretary, and Treasurer, elected by the Board of Directors. The same individual may simultaneously hold more than one office in the Corporation, except the offices of President and Secretary. Their duties shall be as follows:

7.1.1 The **President** shall be the chief executive officer of the Corporation. In general, the powers and duties of the president shall be those ordinarily exercised or performed by the chief executive officers of a nonprofit corporation and such other powers and duties as may be assigned to the president by the Board of Directors. Without limiting the generality of the foregoing by this specification, the president shall see that the resolutions and directions of the Board of Directors are carried into effect. Except in those instances in which the authority to execute is expressly delegated to another officer or agent of the Corporation, or a different mode of execution is expressly prescribed by the Board of Directors or these Bylaws, the president may execute for the Corporation such documents as needed for the conduct of the Corporation's affairs in the ordinary course, as well as any deed, mortgages, leases, bonds, contracts, checks, notes or other documents which the Board of Directors has authorized to be executed, and he or she may accomplish such execution without a seal of the Corporation or either individually or with any other officer thereunto authorized by the Board of Directors, according to the requirements of the form of the document.

7.1.2 The **Secretary** shall have the responsibility for preparing minutes of the directors' meetings and for authenticating records of the Corporation. The secretary shall give notice of all meetings of the Board of Directors and committees as required under the provisions of the Oregon Nonprofit Corporation Act, the Articles of Incorporation and these Bylaws, and shall perform such other duties as the Board of Directors or the president may from time to time assign.

7.1.3 The **Treasurer** shall have custody of the Corporation's funds and securities that come into such officer's hands. When necessary or proper, the Treasurer may endorse or cause to be endorsed, in the name and on behalf of the Corporation, checks, notes, and other obligations for collection and shall deposit or cause to be deposited the same to the credit of the Corporation in such bank or banks or depositories and in such manner as

shall be designated and prescribed by the Board of Directors; may sign or cause to be signed all receipts and vouchers for payments made to the Corporation either alone or jointly with such other officer as may be designated by the Board of Directors; whenever required by the Board of Directors, shall render or cause to be rendered a statement of the cash account; shall enter or cause to be entered regularly in the Corporation's books to be kept by such officer for that purpose full and accurate accounts of all moneys received and paid out on account of the Corporation; shall perform all acts incident to the position of Treasurer subject to the control of the Board of Directors; and shall, if required by the Board of Directors, give such bond for the faithful discharge of such officer's duties in such form as the Board of Directors may require.

7.2 **Subordinate Officers.** The Board of Directors may elect or appoint such other officers, assistant officers, agents, and other employees as it shall deem necessary or desirable. They shall hold their offices for such terms and shall have such authority and perform such duties as shall be determined by the Board of Directors.

7.3 **Compensation.** The salaries, if any, of all officers, employees and other agents of the Corporation shall be fixed by the Board of Directors. Unless otherwise specified by the Board of Directors, officers shall serve without compensation.

7.4 **Election of Officers.** The election of officers shall take place each year at the annual meeting of the Board of Directors. All officers, may, but need not be, members of the Board of Directors.

7.5 **Resignation of Officers.** An officer may resign by oral tender of resignation at any meeting of the Board of Directors or by giving written notice thereof to the Board of Directors. Such resignation shall take effect at the time specified and acceptance of such resignation shall not be necessary to make it effective.

7.6 **Removal of Officer.** Any officer, agent or other employee elected or appointed by the Board of Directors, may be removed by a majority vote of all the directors then serving on the board whenever in their judgment the best interests of the Corporation will be served thereby. Such removal shall be without prejudice to the contractual rights, if any, of the person so removed. If any position should become vacant for any reason, the vacancy shall be filled by the Board of Directors.

7.7 **Restoration of Corporate Property.** On the death, resignation, retirement or removal from office of any officer, agent or other employee, all books, papers, vouchers, money and any other property of whatever kind in their possession or under their control which belong to the Corporation shall be restored to the Corporation.

8. INDEMNIFICATION.

The Corporation shall indemnify its directors, officers, agents and employees for liability and related expenses to the full extent permitted by the Oregon Nonprofit Corporation Act.

9. CONFLICT OF INTEREST POLICY.

9.1 **Conflict of Interest Defined.** A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect financial interest. A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

9.1.1 An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;

9.1.2 A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or

9.1.3 A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

9.2 **Approval Process.** A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction is fair to the corporation at the time it was entered into or is approved as provided in accordance with this Section 9.2. A transaction in which a director has a conflict of interest may be approved:

9.2.1 By the vote of the Board of Directors or a committee of the Board of Directors if the material facts of the transaction and the director's interest are disclosed or known to the Board of Directors or committee of the Board of Directors; or

9.2.2 By obtaining approval of the:

(a) Attorney General of the State of Oregon; or

(b) The Circuit Court for the State of Oregon in an action in which the Attorney General is joined as a party.

9.3 **Votes Required for Approval.** For purposes of Section 9.2, a conflict of interest transaction is authorized, approved or ratified if it receives the affirmative vote of a majority of the directors on the Board of Directors or on the committee who have not direct or indirect interest in the transaction. A transaction may not be authorized, approved or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction votes to authorize, approve or ratify the transaction, a quorum is present of the purpose of acting under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under Section 9.2.1 if the transaction is otherwise approved as provided in Section 9.2.

9.4 **Loans to directors and officers prohibited**. No loans shall be made by the Corporation to any officer or director. The directors of a corporation who vote for or

assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof.

10. LOANS.

No money shall be borrowed by the Corporation without authority of the Board of Directors, and for security purposes, the Board of Directors may authorize the execution and delivery of a mortgage or trust deed upon any of the real property belonging to the Corporation or the pledging of any of the personal property of the Corporation. Such authorization having been given, the president, executive director, or vice-president, if one is appointed, or such other person as may be authorized by the Board of Directors, shall execute in the name of the Corporation the authorized agreements, notes, trust deeds, pledges, and other documents, instruments and agreements related thereto.

11. CHECKS.

All checks of the Corporation shall be signed in such manner as the Board of Directors may, from time to time, designate.

12. AMENDMENTS.

These Bylaws may be amended or repealed, in whole or in part, by the affirmative vote of a majority of the Board of Directors at any regular or special meeting called for that purpose, provided that notice of the proposed amendment is given in the notice of the meeting or notice thereof is waived in writing by all directors.

These Bylaws of ROCKWOOD FOOD, an Oregon nonprofit corporation (the "Corporation"), were approved by the Board of Directors of the Corporation as of the ____ day of August __, 2020.

By: _____
Name: _____
Title: _____

Attachment L

Rockwood Market Hall
Management Agreement

Premises:	Phase II of Rockwood Rising, Parcel 1 PARTITION PLAT NO. 2019-53, Gresham, Multnomah County, Oregon, Address TBD
Term:	Effective January 1, 2021, and expires on December 31, 2030
Owner:	Rockwood Market Hall
Agent:	RKm Management, LLC
Beneficiary:	Gresham Redevelopment Commission

This Rockwood Market Hall Management Agreement (“Agreement”) is entered into this ___ day of August 2020, by and between Rockwood Market Hall ("Owner") and RKm Management, LLC. ("Agent").

Section 1 APPOINTMENT OF MANAGING AGENT

1.1 APPOINTMENT AND ACCEPTANCE

Owner engages Agent as an independent contractor for the sole purpose of performing this Agreement and Agent agrees to perform such services on the terms and conditions set forth in this Agreement. Subject to the termination of this Agreement and Owner’s reasonable oversight, Agent shall have reasonable discretion in the operation, management, construction management, leasing, and supervision of the Premises (collectively, “Services”) but ultimate authority and control of all such matters shall be vested in Owner. Owner agrees to pay all reasonable expenses in connection with the Services performed by Agent.

1.2 TERM

The term of this Agreement shall be for an initial period of 10 years (“Term") from the 1st day of January 2021, to and including the 31st day of December 2030, and thereafter shall be automatically renewed for additional terms of 5 years unless terminated as provided for in this Agreement.

1.3 STANDARDS

Agent shall operate the Premises and provide the Services consistent with all standards and obligations applicable to Owner as set forth in the Land Development Agreement dated June 19, 2018, as amended (“LDA”) and the Ground Lease between GRDC and Owner, dated _____, 2020, as amended (“Ground Lease”). Copies of currently effective version of the Ground Lease have been reviewed and approved by Agent, and in compliance with all applicable laws, ordinances, regulations, rulings, and orders of governmental authorities and the requirements of all permits and licenses. Agent shall discharge its duties under this Agreement using a standard of diligence customary for operators of similar properties and shall abide by Owner’s written rules and regulations governing operation and management of the Premises.

1.4 CONSULTATION

Owner will be available to consult with and advise Agent, at Agent’s reasonable request, concerning all policies and procedures affecting all phases of the conduct of business of the Premises. Agent shall in all events consult with and obtain the approval of Owner before implementing any material changes in policies and procedures relating to the Premises.

Section 2 BANK ACCOUNTS

The various bank accounts established under this Agreement shall at all times be established as

set forth in this Agreement. No amounts deposited in any accounts established under this Agreement shall in any event be commingled with any other funds of Agent.

2.1 OPERATING (AND/OR) RESERVE ACCOUNT(S)

Agent shall establish a separate account(s) known as the Rockwood Market Hall Operating (Account(s), in a bank or other institution whose deposits are insured by the federal government, separate and apart from Agent's corporate accounts, for (i) the deposit of receipts collected as described herein and excluding such receipts as required by law to be deposited in the security deposit account, and (ii) payment for costs of operating the Premises and for all sums due Agent under this Agreement, including Agent's compensation consistent with Section 19. Such depository shall be selected by the Agent, the operating account shall be under the control of Agent. However, Agent shall not be held liable in the event of bankruptcy or failure of a depository. Owner will establish a separate reserve account to be under the control of owner. Upon request by Agent, Owner will disburse reserve funds as needed for property operations. Funds in the Operating (and/or) Reserve Account(s) remain the property of Owner subject to disbursement of expenses by Agent as described in this Agreement.

2.2 SECURITY DEPOSIT ACCOUNT

Agent shall, if required by law, maintain a separate interest-bearing account for tenant security deposits and advance rentals. Such account shall be maintained in accordance with applicable state or local laws, if any.

Section 3 COLLECTION OF RENTS AND OTHER RECEIPTS

3.1 AGENT'S AUTHORITY

Agent shall collect (and give receipts for, if necessary) all rents, charges and other amounts receivable in connection with the management and operation of the Premises. Such receipts (except tenants' security deposits and advance rentals, which shall be handled as specified in subsections 2.2 and 3.3 hereof; and special charges, which shall be handled as specified in subsection 3.2 hereof) shall be deposited in the Operating (and/or) Reserve Account(s) maintained by Agent for the Premises.

3.2 SPECIAL CHARGES

If permitted by applicable law, Agent may collect from tenants any or all of the following: an administrative charge for late payment of rent, a charge for returned or non-negotiable checks, a credit report fee, an administrative charge, and/or broker's commission for subleasing.

3.3 SECURITY DEPOSITS

Agent shall collect, deposit, and disburse tenants' security deposits in accordance with the terms of each tenant's lease. Agent shall pay tenants interest upon such security deposits only if required by law to do so; otherwise, any interest earned on tenant security deposits is to be retained by Agent as compensation for administering these funds. Agent

shall comply with all applicable state or local laws concerning the responsibility for security deposits and interest, if any.

Section 4 [RESERVED]

Section 5 AGENT NOT REQUIRED TO ADVANCE FUNDS

Agent shall manage funds in the Operating Account and Owner shall manage funds in the Reserve Account in a manner required to ensure operating capital is available to pay all costs associated with operations of the Premises.

In the event that the balance in the Operating (and/or) Reserve Account(s) is at any time insufficient to pay disbursements due and payable under subsections 2.1, Agent shall, immediately upon notice, advance sufficient funds to cover the deficiency and replenish the contingency reserve. In lieu of remittance of sufficient funds, Owner may request a line of credit be extended by Agent. Upon receipt of such request, Agent shall extend a line of credit to Owner with a maximum credit limit of $100,000, subject to terms and conditions consistent with the market rate for a line of credit from a chartered bank or similar financial institution, provided that any such line of credit shall not be in an amount that would cause 5% or more of the average of the unadjusted bases of Owner's property to be attributable to nonqualified financial property, as such term is defined in Section 1.45D-1(d)(4)(i)(E) of the Treasury Regulations. The credit limit and terms may be amended by mutual agreement of the parties.

Other than the above-referenced line of credit, if Agent elects to advance any money in connection with the Premises to pay any expenses for Owner, such advance shall be considered a loan subject to repayment with interest equal to the United States Prime Rate, and Owner hereby agrees to reimburse Agent, and hereby authorizes Agent to deduct such amounts from any monies due Owner.

Section 6 BOOKS AND RECORDS, REPORTS, BUDGETS

6.1 BOOKS AND RECORDS

Agent shall keep full and accurate books of account and other records reflecting the results of the operation of the Premises. The books of account and all other records relating to or reflecting the operation of the Premises shall be available to Owner (and its representatives) at all reasonable times for examination, audit, copy, inspection, and transcription.

6.2 REPORTS

By the 20th day of each month, Agent shall furnish Owner with the following reports on the operation of the Premises:

a. An income and expense statement for each month;

b. A balance sheet statement for each month; and

c. Such other monthly reports as are reasonably requested by Owner in writing.

In addition, Agent shall, on a mutually acceptable schedule, prepare and submit to Owner such other reports as are agreed on by both parties.

6.3 BUDGETS

Agent shall prepare and Owner shall approve the following items at least annually:

a. An operating budget setting forth in reasonable line-item detail the projected income from and expenses of all aspects of the operation of the Premises. The operating budget shall include line items denoting anticipated costs for (i) debt service, (ii) operating expenses, and (iii) Events and programming. The operating budget shall also specify an annual contingency for cost overruns for each of these three budget line items. Owner may decline to approve any operating budget for which there are not funds in the reserve account exceeding the aggregate budgeted contingency funds; and

b. A capital budget setting forth in reasonable line-item detail any proposed capital projects and expenditures for the Premises.

6.4 OWNER'S RIGHT TO AUDIT

Owner shall have the right to request periodic audits of all applicable accounts managed by Agent, and the cost of such audit(s) shall be paid by Owner.

Section 7 ADVERTISING

Agent is authorized to advertise the Premises or portions thereof as available for lease, using periodicals, signs, plans, brochures, displays, or such other means as Agent may deem proper and advisable. Agent is authorized to place signs on the Premises advertising the Premises as available for lease, provided such signs comply with applicable laws. The cost of such advertising shall be paid out of the Operating (and/or) Reserve Account(s). All advertising shall make clear that Agent is the manager and NOT the Owner of the Premises.

Section 8 LEASING

8.1 AGENT'S AUTHORITY TO LEASE PREMISES

Agent shall use all reasonable efforts to keep the Premises leased by procuring tenants for the Premises. Agent is authorized to market, solicit, negotiate, prepare, and execute all leases, including all renewals and extensions of leases (and expansions of space in the Premises, if applicable), and to cancel and modify existing leases. Agent shall execute all leases as agent for the Owner. All costs of leasing shall be paid out of the Operating (and/or) Reserve Account(s).

8.2 NO OTHER LEASING AGENT

During the term of this Agreement, Owner shall not authorize any other person, firm, or corporation to negotiate or act as leasing or rental agent with respect to any leases for space in the Premises. Owner agrees to promptly forward all inquiries about leases to

Agent.

8.3 RENTAL RATES

Subject to the terms of the Ground Lease and subject to prior Owner approval in its sole discretion, Agent is authorized to establish and change or revise all rents, fees, or deposits, and any other charges chargeable with respect to the Premises.

8.4 ACCOUNTS, RECORDS, MONTHLY STATEMENTS

Agent shall keep complete and detailed accounts and records of its property management activities relating to the Premises in accordance with Oregon laws and Oregon Real Estate Agency Rules ("REA Rules"). Such records shall include, without limitation, a separate Owner's ledger with reference to Agent's receipts and disbursements with respect to the Premises. Manager shall account for all checks, including voided checks, as part of Manager's record keeping obligation under this Agreement. Owner shall have reasonable access to such accounts and records during Agent's regular business hours upon reasonable notice to Agent.

Agent shall maintain proper and updated records of all existing leases, lease modifications and other such instruments on Owner's behalf. Agent shall retain and store all records required by this Agreement for a period of six (6) years from and after termination or expiration of this Agreement. Such storage shall comply with applicable REA Rules. Upon expiration or earlier termination of this Agreement, Agent shall turn over the records and accounts if, and as, required by Oregon law and REA Rules.

8.5 ENFORCEMENT OF LEASES

Agent shall refer any tenant demands or claims of default, and any known tenant defaults to Owner. Agent is authorized to institute, in Owner's name, all legal actions or proceedings for the enforcement of any lease term, for the collection of rent or other income from the Premises, or for the evicting or dispossessing of tenants or other persons from the Premises. Agent is authorized to sign and serve such notices as Agent deems necessary for lease enforcement, including the collection of rent or other income. Agent is authorized, when expedient, to settle, compromise, and release such legal actions or suits or reinstate such tenancies. Any monies for such settlements paid out by Agent shall not exceed $10,000 without prior approval by Owner. Attorneys' fees, filing fees, court costs, and other necessary expenses incurred in connection with such actions and not recovered from tenants shall be paid out of the Operating (and/or) Reserve Account(s). Agent may select the attorney of its choice to handle such litigation.

Section 9 OPERATIONS & MANAGEMENT

Agent is authorized to perform Services including operation and maintenance of the Premises in a manner consistent with the professional operation of public markets and food halls. In addition to other duties as described herein, Agent shall also:

9.1 Maintain cleanliness of interior common areas, including but not limited to seating and dining areas, walkways, entries and exits, trash enclosures, and recycling areas;

9.2 Provide for the regular removal of trash, recycling, and food waste from the Premises;

9.3 Maintain exterior sidewalks, walkways, and the Plaza to be free from trash, litter, and tripping hazards. Remove snow and ice and apply deicer to walkways as needed during inclement weather;

9.4 Maintain landscaped areas to be free of trash and litter, and to maintain the plant materials in accordance with nursery recommendations;

9.5 Respond to and address tenant needs and requests as may be necessary from time to time;

9.6 Moderate and resolve disputes between tenants in the Premises on behalf of Owner;

9.7 Develop a security plan and provide security to the Premises as needed to maintain a safe and secure environment for customers and tenants;

9.8 Manage the usage of the commissary kitchen by tenants and others, including but not limited to: maintaining a schedule of availability; providing oversight to ensure equipment is used appropriately and cleaned regularly, and that missing or damaged equipment is replaced using funds from the Operating and/or Reserve Account(s); entering into agreements and charging fees to kitchen users for use of the kitchen; and other duties as required for operating the commissary kitchen in a professional manner consistent with the terms of the Ground Lease;

9.9 Coordinate periodic meetings of the Stakeholder Advisory Committee as required under the terms of the Ground Lease, and provide a report of such meetings to the Owner in a timely manner;

9.10 Coordinate the provision of small business support services by connecting tenants to third-party service providers to provide "wrap around" services for small business development;

9.11 Other duties as may be needed to provide for safe, clean, and efficient operation of the Premises;

9.12 Agent shall pay, with Owner's approval, principal, interest, any reserves on debt instruments as directed by Owner; taxes; and other governmental assessments and licenses; reserves for such items; or other reserves for Premises capital expenditures.

Section 10 AGENCY; EMPLOYEES

10.1 INDEPENDENT CONTRACTOR

In the performance of its duties, Agent shall act solely as an independent contractor, and not as an employee of Owner. Nothing in this Agreement shall constitute or be construed to be or create a partnership or joint venture between Agent and Owner. Except as otherwise expressly provided in this Agreement, (a) all debts liabilities, and/or obligations of any nature to third persons incurred by Agent in the course of its operation and management of the Premises in accordance with the provisions of this Agreement shall be the debts and liabilities of Agent only, and (b) Owner shall not be liable for any such debts, liabilities and/or obligations, except as expressly provided otherwise in this Agreement.

10.2 AGENT'S AUTHORITY TO HIRE

Agent is authorized to hire, supervise, discharge, and pay all employees, contractors, or other personnel necessary to be employed in the management, maintenance, and operation of the Premises. All matters pertaining to the employment, supervision, compensation, promotion, and discharge of such employees are the responsibility of Agent. All employment arrangements of Agent are therefore solely its concern, and Owner shall have no liability with respect thereto, including, without limitation, any liability to any party for any unpaid, unfunded, or accrued liabilities under any pension, profit sharing or other plan covering such employees.

10.3 AGENT PAYS EMPLOYEE EXPENSES

All wages and fringe benefits payable to such employees hired per subsection 10.1 above, and all local, state, and federal taxes and assessments (including but not limited to Social Security taxes, unemployment insurance, and workers' compensation insurance) incident to the employment of such personnel, shall be paid by Agent out of the Operating (and/or) Reserve Account(s) and shall be treated as operating expenses. Costs paid for Agent's employees shall be reasonable and consistent with the market rate of salary and benefits for similar services in the Portland metropolitan area.

10.4 AGENT'S AUTHORITY TO FILE RETURNS

Agent shall do and perform all acts required of Owner with respect to the Premises and shall execute and file all tax and other returns required under the applicable federal, state, and local laws, regulations, and/or ordinances governing property taxes, income taxes, employment, and all other statements and reports pertaining to labor employed in connection with the Premises and under any similar federal or state law now or hereafter in force. In connection with such filings, Owner shall upon request promptly execute and deliver to Agent all necessary powers of attorney, notices of appointment, and the like. Owner shall be responsible for all amounts required to be paid under the foregoing laws, and Agent shall pay the same from the Operating (and/or) Reserve Account(s). Agent shall be responsible for any fines, interest and penalties for failure or late payment of any federal, state, or local tax.

10.5 COMPLIANCE WITH LAWS

During the Terms, Agent shall cause the Premises to be operated consistent with all employment laws, including but not limited to any federal, state, local and foreign

statutes, laws, ordinances, regulations, rules, permits, judgments, orders and decrees affecting labor union activities, civil rights or employment in the United States, including, without limitation, the Civil Rights Act of 1870, 42 U.S.C. § 1981, the Civil Rights Acts of 1871, 42 U.S.C. § 1983 the Fair Labor Standards Act, 29 U.S.C. § 201, et seq., the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq., as amended, the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621, et seq., the Rehabilitation Act, 29 U.S.C. § 701, et seq., the Americans With Disabilities Act of 1990, 29 U.S.C. § 706, 42 U.S.C. § 12101, et seq., the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 301, et seq., the Equal Pay Act, 29 U.S.C. § 201, et seq., the National Labor Relations Act, 29 U.S.C. § 151, et seq., and any regulations promulgated pursuant to such statutes (collectively, as amended from time to time, and together with any similar laws now or hereafter enacted, "Employment Laws").

10.6 EMPLOYMENT POLICIES

Agent shall develop and implement policies, procedures, and programs for the Premises (collectively, "Employment Policies") reasonably designed to effect compliance with the Employment Laws. The Employment Policies shall be updated from time to time to be consistent with industry standards for reputable food hall and restaurant management companies.

Section 11 MAINTENANCE AND REPAIR

Agent is authorized to make or cause to be made, through contracted services or otherwise, all ordinary repairs and replacements reasonably necessary to preserve the Premises in its present condition and for the operating efficiency of the Premises, and all alterations required to comply with lease requirements, governmental regulations, or insurance requirements. Agent is also authorized to decorate the Premises and to purchase or rent, on Owner's behalf, all equipment, tools, appliances, materials, supplies, uniforms, and other items necessary for the management, maintenance, or operation of the Premises. Such maintenance and decorating expenses shall be paid out of the Operating (and/or) Reserve Account(s). This section applies except where decorating and/or maintenance are at tenants' expense as stipulated in a lease.

11.1 APPROVAL FOR EXCEPTIONAL MAINTENANCE EXPENSE

The expense to be incurred for any one item of maintenance, alteration, refurbishing, or repair shall not exceed the sum of $10,000, unless such expense is specifically authorized by Owner, or is incurred under such circumstances as Agent shall reasonably deem to be an emergency. In an emergency where repairs are *immediately* necessary for the preservation and safety of the Premises, or to avoid the suspension of any essential service to the Premises, or to avoid danger to life or property, or to comply with federal, state, or local law, such emergency repairs shall be made by Agent at Owner's expense without prior approval.

Section 12 CONTRACTS, UTILITIES, AND SERVICES

Agent is authorized to negotiate contracts for goods and services and to enter into agreements in Owner's name for all necessary repairs, maintenance, and utility services. Agent shall, in Owner's name and at Owner's expense, make contracts on Owner's behalf for electricity, gas, telephone,

fuel, water, and such other services as Agent shall deem necessary or prudent for the operation of the Premises. All utility deposits shall be the Owner's responsibility, except that Agent may pay same from the Operating (and/or) Reserve Account(s). Prior to: (i) contracting for goods and/or services at a contract price exceeding $10,000 or entering into any amendment of an existing contract for goods and/or services resulting in a cumulative contract price exceeding $10,000 in the aggregate, (ii) contracting for or making expenditures that exceed the annual budget and contingencies therein, Agent shall obtain Owner's approval to be granted in Owner's reasonable discretion. Upon request of Owner, Agent shall rebid any contract on an annual basis. Agent must also

Section 13 [RESERVED]

Section 14 [RESERVED]

Section 15 [RESERVED]

Section 16 INSURANCE

Owner and Agent shall arrange for and maintain during the Term, the following insurance in connection with the Premises. All required policies shall provide that notice of default or cancellation shall be sent to Agent as well as Owner and shall require a minimum of thirty (30) days' written notice to Agent before any cancellation of or changes to said policies.

16.1 INSURANCE BY OWNER

Owner agrees to obtain and maintain in effect throughout the Term of this Agreement, casualty (fire and extended coverage property insurance), public liability, contractual liability (specifically insuring the indemnity provisions contained herein), steam boiler (if applicable), and such other insurance as the Owner reasonably decides to be necessary or desirable for the protection of the interests of Owner and Agent. In each such policy of liability insurance, Owner agrees to designate Manager as an additional insured party. Owner shall determine in its sole discretion, the amount of coverage and all other terms and conditions for each policy. Owner shall deliver a certificate of each policy issued by the carrier, together with a copy of each policy, promptly to Agent.

16.2 INSURANCE BY AGENT

Agent agrees to obtain and maintain in full force and effect, at Agent's expense, errors and omissions insurance coverage, a fidelity bond and theft insurance for Agent's employees who handle Owner's funds, and worker's compensation coverage for Agent's employees as required by law. Agent shall provide to Owner a certificate of its liability insurance designating Owner as additional insured party.

Section 17 INDEMNIFICATION

17.1 AGENT

Except for any liabilities, losses, claims, damages, cost and any expenses (including attorneys' fees) arising out of or based in any way on Owner's fraud, negligence, willful

misconduct, or breach of this Agreement, Agent shall indemnify and hold Owner (and its respective agents, principals, shareholders, partners, trustees, members, officers, directors and employees) harmless from and against all liabilities, losses, claims, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees and expenses) that may be incurred by or asserted against any such party and that arise from (a) the fraud, negligence or willful misconduct of Agent or any of its employees, officers, directors, agents or contractors, (b) the default, after notice and the expiration of the applicable cure period, by Agent of any provision of this Agreement, (c) any action taken by Agent which is beyond the scope of Agent's authority under this Agreement, (d) Agent's management of the Premises, including, without limitation, any liability resulting from violations of liquor laws or other governmental regulations with respect to the operation of the Premises, (e) any liability asserted or claimed against Owner arising out of the acts or omissions of Agent, including, without limitation, any claim that Owner is liable for Agent's tax liabilities as a successor of the Premises or as a transferee of any personal property of Agent, or (f) any matter related to the employment of the Agent's employees or any sub-subtenant's employees. Owner shall promptly provide Agent with written notice of any claim or suit brought against it by a third party which might result in such indemnification and Agent shall have the option of defending any claim or suit brought against Owner with counsel selected by Agent and reasonably approved by Owner. Owner shall cooperate with the Agent or its counsel in the preparation and conduct of any defense to any such claim or suit.

17.2 OWNER

Agent assumes no liability whatsoever for any acts or omissions of Owner, or any previous owners of the Premises, or any previous management or other agent of either. Agent assumes no liability for any failure of or default by any tenant in the payment of any rent or other charges due Owner or in the performance of any obligations owed by any tenant to Owner pursuant to any lease or otherwise. Nor does Agent assume any liability for previously unknown violations of environmental or other regulations which may become known during the period this Agreement is in effect. Any such regulatory violations or hazards discovered by Agent shall be brought to the attention of Owner in writing, and Owner shall make commercially reasonable efforts to promptly cure them.

17.3 SURVIVAL

The provisions of this Section 17 shall survive the termination of this Agreement with respect to acts, omissions, and occurrences arising during the Term.

Section 18 [RESERVED]

Section 19 AGENT'S COMPENSATION AND EXPENSES

As compensation for Services provided by Agent under this Agreement (and exclusive of reimbursement of expenses to which Agent is entitled hereunder), Owner shall pay Agent as described in this Section 19.

19.1 MANAGEMENT SERVICES

The greater of (i) $3,000 per month, or (ii) 6% of total monthly gross receipts from the Premises, payable by the 15th day of the month for the duration of this Agreement. Payments due Agent for periods of less than a calendar month shall be prorated over the number of days for which compensation is due. The percentage amount set forth in (ii) above shall be based upon Owner's total gross receipts from the Premises during the preceding month.

The term "gross receipts" shall be deemed to include all rents and other income and charges from the normal operation of the Premises, including, but not limited to, rents, parking fees, forfeited security deposits, other fees and deposits, and other miscellaneous income. Gross receipts shall NOT be deemed to include the special charges listed in subsection 3.2, or excess interest on security deposits (from subsection 3.3), or income arising out of the sale of real property or the settlement of fire or other casualty losses and items of a similar nature.

19.2 LEASING COMMISSIONS

a. New Leases. Fees to be 2.5 percent (2.5%) for years one (1) and two (2); 5 percent (5%) for years three (3) through five (5); 5 percent (5%) for years six (6) and seven (7); and 2.5 percent (2.5%) for the balance of the base term;

b. Renewals. Fees to be 2.5 percent (2.5%) for the renewal term;

c. Expansions. Fees to be 2.5 percent (2.5%) of the rental revenue of the expanded area for the remaining term.

19.3 CONSTRUCTION MANAGEMENT

Owner shall pay Agent a fee of $2,500 per month for management of each tenant improvement, capital improvement, repair, maintenance, or upgrade to the Premises in excess of $10,000 (including costs for design, labor, construction materials, and other hard and soft project costs). Fees shall be prorated to bases of the number of days Agent performs the construction management services as described in this subsection.

Section 20 REPRESENTATIONS

Owner represents and warrants: (i) that Owner has full power and authority to enter this Agreement; (ii) that there are no written or oral agreements affecting the Premises other than tenant leases, copies of which have been furnished to Agent; (iii) that there are no recorded easements, restrictions, reservations, or rights of way which adversely affect the use of the Premises for the purposes intended under this Agreement; (iv) that to the best of Owner's knowledge, the property is zoned for the intended use; (v) that all leasing and other permits for the operation of the Premises have been secured and are current; (vi) that the building and its construction and operation do not violate any applicable statutes, laws, ordinances, rules, regulations, orders, or the like (including, but not limited to, those pertaining to hazardous or toxic substances); (vii) that the building does not contain any asbestos, urea, formaldehyde, radon, or other toxic or hazardous substance unless Owner notifies Agent prior to entering in to this

Agreement; (viii) and that no known unsafe condition exists.

Section 21 STRUCTURAL CHANGES

Subject to the terms of the Land Development Agreement dated June 19, 2018, as amended, between Rockwood Rising Management, LLC, GRDC, and Owner, and the Ground Lease, and subject to Owner approval in its reasonable discretion Agent may make structural changes to the ground floor market hall space or to any equipment therein. Agent shall not incur expenses chargeable to Owner other than expenses related to exercising the express powers vested in Agent through this Agreement.

However, such emergency repairs as may be required because of danger to life or property, or which are immediately necessary for the preservation and safety of the Premises or the safety of the tenants and occupants thereof, or required to avoid the suspension of any necessary service to the Premises, or to comply with any applicable federal, state, or local laws, regulations, or ordinances, shall be authorized pursuant to subsection 11.1 of this Agreement, and Agent shall notify Owner as soon as practicable.

Section 22 BUILDING COMPLIANCE

Agent shall promptly notify Owner of any complaints, warnings, notices, or summonses received by Agent relating to compliance of the Premises or any building thereon or any equipment therein with the requirements of any building codes or with any statute, ordinance, law, or regulation of any governmental body or of any public authority or official thereof having jurisdiction, and shall work with the Owner to ensure compliance. Owner represents that to the best of Owner's knowledge the Premises and all such equipment comply with all such requirements, and Owner authorizes Agent to disclose the ownership of the Premises to any such officials.

Section 23 TERMINATION

23.1 TERMINATION BY AGENT

This Agreement may be terminated by Owner or Agent, with or without cause, at the end of the initial term or of any following term year upon the giving of sixty (60) days' written notice prior to the end of said initial term or following term year.

23.2 TERMINATION FOR CAUSE

Notwithstanding the foregoing, this Agreement shall terminate in any event, and all obligations of the parties hereunder shall cease (except as to liabilities or obligations which have accrued or arisen prior to such termination, or which accrue pursuant to subsection 23.3 as a result of such termination, and obligations to insure and indemnify), upon the occurrence of any of the following events:

(a) Breach Of Agreement--Thirty (30) days after the receipt of notice by either party to the other specifying in detail a material breach of this Agreement, if such breach has not been cured within said thirty (30) day period; or if such breach is of a nature that it cannot be cured within said thirty (30) day period but can be cured within a reasonable time thereafter, if efforts to cure such breach have not commenced or/and

such efforts are not proceeding and being continued diligently both during and after such thirty (30) day period prior to the breach being cured, this Agreement shall terminate. HOWEVER, the breach of any obligation of either party hereunder to pay any monies to the other party under the terms of this Agreement shall be deemed to be curable within thirty (30) days.

(b) Failure to Act, Etc.— The following events are considered breach, but only to the extent that any event will result in material damage or liability to a party to this Agreement: (1) any insurance required of Owner or Agent is not maintained without any lapse or cured within a reasonable time after receipt of notice from the other party, and (2) the Premises, or any portion thereof, or any act or failure to act by either party, its agents and employees with respect to the Premises, fails to comply with the terms of the Ground Lease, or fails to comply with any law or regulation, or any order or ruling of any public authority.

(c) Excessive Damage--Upon the destruction of or substantial damage to the Premises by any cause, or the taking of all or a substantial portion of the Premises by eminent domain, in either case making it impossible or impracticable to continue operation of the Premises.

23.3 OWNER RESPONSIBLE FOR PAYMENTS

Upon termination of or withdrawal from this Agreement, Owner shall assume the obligations of any contract or outstanding bill executed by Agent under this Agreement for and on behalf of Owner and responsibility for payment of all unpaid bills.

Agent shall deliver to Owner, within thirty (30) days after the end of the month in which this Agreement is terminated, any balance of monies due Owner or of tenant security deposits, or both, which were held by Agent with respect to the Premises, as well as a final accounting reflecting the balance of income and expenses with respect to the Premises as of the date of termination or withdrawal, and all records, contracts, leases, receipts for deposits, and other papers or documents which pertain to the Premises.

23.4 SALE OF PREMISES

In the event that the Premises are sold by Owner during the period of this Agreement, Agent shall have exclusive rights of representation in the sale as stated in a specific sales agreement to be negotiated separately. Upon transfer of ownership, this Agreement shall terminate upon close of the sale.

Section 24 ASSIGNMENT

Agent may not suffer, cause, or enter into a Transfer (herein defined), whether voluntarily or by operation of law, without the prior written consent of Owner, which may be denied or exercised in Owner's sole and absolute discretion. Any consent to one Transfer shall not be deemed to be a consent to any subsequent Transfer. Any Transfer without consent shall (i) be voidable, and (ii) terminate this Agreement, in either case, at the option of Owner. The term "Transfer" as used herein shall include any assignment of all or any part of this Agreement (including an assignment by operation of law), and any transfer, assignment or hypothecation of any ownership interest in

Agent, whether in a single transaction or in a series of transactions, of fifty percent (50%) or more. Agent contracting with a third-party to perform Services does not constitute a Transfer.

Section 25 INDEMNIFICATION SURVIVES TERMINATION

All representations and warranties of the parties contained herein shall survive the termination of this Agreement. All provisions of this Agreement that require a party to have insured, defend, reimburse, or indemnify the other party shall survive any termination.

Section 26 HEADINGS

All headings and subheadings employed within this Agreement are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.

Section 27 FORCE MAJEURE

Any delays in the performance of any obligation of Agent under this Agreement shall be excused to the extent that such delays are caused by wars, national emergencies, pandemics, natural disasters, strikes, labor disputes, utility failures, governmental regulations, riots, adverse weather, and other similar causes not within the control of Agent, and any time periods required for performance shall be extended accordingly.

Section 28 COMPLETE AGREEMENT

This Agreement, including any specified attachments, constitutes the entire agreement between Owner and Agent with respect to the management and operation of the Premises and supersedes and replaces any and all previous management agreements entered into or/and negotiated between Owner and Agent relating to the Premises covered by this Agreement. No change to this Agreement shall be valid unless made by supplemental written agreement executed and approved by Owner and Agent. Except as otherwise provided herein, any and all amendments, additions, or deletions to this Agreement shall be null and void unless approved by Owner and Agent in writing. Each party to this Agreement hereby acknowledges and agrees that the other party has made no warranties, representations, covenants, or agreements, express or implied, to such party, other than those expressly set forth herein, and that each party, in entering into and executing this Agreement, has relied upon no warranties, representations, covenants, or agreements, express or implied, to such party, other than those expressly set forth herein.

Section 29 RIGHTS CUMULATIVE; NO WAIVER

No right or remedy herein conferred upon or reserved to either of the parties to this Agreement is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this Agreement or now or hereafter legally existing upon the occurrence of an event of default under this Agreement. The failure of either party to this Agreement to insist at any time upon the strict observance or performance of any of the provisions of this Agreement, or to exercise any right or remedy as provided in this Agreement, shall not impair any such right or remedy or be construed as a waiver or relinquishment of such right or remedy with respect to subsequent defaults. Every right and remedy given by this Agreement to the parties to it may be exercised from time to time

and as often as may be deemed expedient by those parties

Section 30 APPLICABLE LAW AND PARTIAL INVALIDITY

The execution, interpretation, and performance of this Agreement shall in all respects be controlled and governed by the laws of the State of Oregon. If any part of this Agreement shall be declared invalid or unenforceable, Owner and Agent shall each have the option to terminate this Agreement by notice to the other.

Section 31 ARBITRATION

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be exclusively settled by arbitration administered by the American Arbitration Association in accordance with its Commercial (or other) Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Section 32 NOTICES

Any notices, demands, consents, and reports necessary or provided for under this Agreement shall be in writing and shall be addressed as follows:

To Agent:
RKm Management, LLC
c/o Roy Kim
15160 NW Laidlaw Rd
Suite 108
Portland, OR 97229

To Owner:
Rockwood Market Hall
c/o Emily Bower, President
1333 NW Eastman Pkwy
Gresham, OR 97030

With a copy to:
City of Gresham
Attn: City Attorney
1333 NW Eastman Pkwy
Gresham, OR 97030

Such notice or other communication may be mailed by United States registered or certified mail, return receipt requested, postage prepaid, and may be deposited in a United States Post Office or a depository for the receipt of mail regularly maintained by the post office. Such notices, demands, consents, and reports may also be delivered by hand or by any other receipted method or means permitted by law. For purposes of this Agreement, notices shall be deemed to have been "given" or "delivered" upon personal delivery thereof or forty-eight (48) hours after having been deposited in the United States Postal Service as provided herein.

Section 33 THIRD PARTY BENEFICIARY

Owner and Agent expressly acknowledge and agree that GRDC is a third party beneficiary of this Agreement and that GRDC shall have the full right to sue upon and enforce this Agreement in accordance with its terms as if it were a signatory hereto. Any oversight, monitoring or evaluation of the activities of Agent by Owner or GRDC shall not diminish or relieve in any way the liability of Agent for any of its duties and responsibilities under this Agreement.

Section 34 AGREEMENT BINDING UPON SUCCESSORS AND ASSIGNS

This agreement shall be binding upon the parties hereto and their respective personal representatives, heirs, administrators, executors, successors, and assigns.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have affixed or caused to be affixed their respective signatures:

_____ (OWNER) Date: _____
Rockwood Market Hall

_____ Title: _____
Print Name

_____ (AGENT) Date: _____
RKm Management, LLC

_____ Title: _____
Print Name

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