

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2013-029

Authorizing Actions Related to Port City Leases and Acceptance of Deed from Port City to Satisfy Financial Obligation.

The Multnomah County Board of Commissioners Finds:

- a. Motor Vehicle Rental Tax Revenue Bonds (Bonds) were issued pursuant to a Trust Indenture, dated as of November 1, 2000, between the County, as issuer, and U.S. Bank, N.A. (formerly known as U.S. Bank Trust National Association), as trustee.
- b. In conjunction with issuance of the Bonds, on November 1, 2000 the County entered into a Ground Lease Agreement (Ground Lease) and a Sublease Agreement (County Sublease) with Port City Development Center, an Oregon Nonprofit Corporation (Port City) for lease by the County and sublease back to Port City of certain real property and improvements located in the City of Portland, County of Multnomah, State of Oregon as described more fully in those agreements (the Property), for Port City's operation of a vocational training center serving developmentally disabled County residents.
- c. Rental payments made by Port City to the County under the County Sublease have been used to repay the Bonds, in part.
- d. Due to financial hardship, Port City defaulted on its rent and notified County of its intent to cease operations and to assign the vocational training center contracts to Albertina Kerr Centers, Inc., an Oregon nonprofit corporation (Kerr) effective February 1, 2013, and of Port City's willingness to convey title to the Property to County, in full satisfaction of Port City's financial obligation under the Port City Sublease.
- e. Section 10.1 of the County Sublease requires Port City to obtain County's consent to any sublease of Port City's interest in the County Sublease, and the considerations for County's consent are Kerr's operation of the vocational training center and Port City's agreement to deliver to County the monthly rental paid by Kerr prior to termination of the County Sublease, in partial satisfaction of Port City's obligations under the County Sublease.
- f. During the term of the County Sublease, County has not "participate[d] in the management of a facility" as that phrase is used and defined in Oregon Revised Statutes (ORS) 465.200 et seq. and Oregon Administrative Rules (OAR) 340-122-120 concerning the Property, and is prepared to accept title to secure repayment of the Bonds and therefore "primarily to protect a security interest" as that phrase is used and defined in ORS 465.200 et seq. and OAR 340-122-120.
- g. County and Port City desire to terminate the Ground Lease and the County Sublease contemporaneously with Port City's execution and delivery to County of the Bargain & Sale Deed conveying the Property to County.

The Multnomah County Board of Commissioners Resolves:

1. The County Chair is authorized to execute the Consent to Port City Sublease, Termination of Port City to County Ground Lease, Termination of County to Port City Sublease, and Acceptance of Deed from Port City in substantial conformance with the forms attached to this Resolution and to execute any additional documents necessary or desirable to further the intent of the attached documents, including a direct lease of the Property to Kerr following recordation of the Deed from Port City, so long as such modifications or documents do not result in a material increase in the obligations of Multnomah County or a material decrease in the benefits for Multnomah County under the attached documents.

ADOPTED this 21st day of March, 2013.



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Jeff Cogen, Chair

REVIEWED:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 
Kenneth M. Elliott, Assistant County Attorney

SUBMITTED BY: Joanne Fuller, Chief Operating Officer, and Mark Campbell, Chief Financial Officer

**MULTNOMAH COUNTY CONSENT
TO
PORT CITY SUBLEASE TO ALBERTINA KERR**

THIS CONSENT ("Consent") is granted by **MULTNOMAH COUNTY, OREGON**, a political subdivision of the State of Oregon ("**County**"), to **THE PORT CITY DEVELOPMENT CENTER**, an Oregon nonprofit corporation, as Sublessor ("**Port City**"), and to **ALBERTINA KERR CENTERS, INC.**, an Oregon nonprofit corporation, as Sublessee ("**Albertina Kerr**") as of the last date of signature indicated below.

RECITALS:

WHEREAS, on November 1, 2000, Port City, as Lessor, and County, as Lessee, entered into a Ground Lease Agreement ("**Ground Lease**") of certain real property acquired by Port City at 2124 N. Williams Ave., Portland, further described in Exhibit "A" attached hereto (the "**Premises**");

WHEREAS, County financed Port City's acquisition, construction, renovation, improvement and equipping of certain facilities on the Premises by issuing Revenue Bonds (the "**Bonds**");

WHEREAS, County and Port City entered into a Sublease Agreement of the Premises from County to Port City, which was amended by a First Amendment dated July 25, 2002, and a Second Amendment to Sublease dated November 29, 2007, and provided for Port City's payment of monthly rent to be used by County to repay the Bonds (the "**County Sublease**");

WHEREAS, Port City desires to sub-sublease the Premises to Albertina Kerr, and Albertina Kerr desires to sub-sublease the Premises from Port City, upon the terms and conditions set forth in a Sublease made and entered into effective as of January 31, 2013, a copy of which is attached hereto as Exhibit "B" and made a part hereof (the "**Port City Sublease**");

WHEREAS, Section 3 of the Port City Sublease requires Albertina Kerr to pay monthly rental of \$3,350 per month to Port City in advance on the first of each month;

WHEREAS, Section 10.1 of the County Sublease requires Port City to obtain County's consent to any sublease of Port City's interest in the County Sublease;

WHEREAS, Port City and Albertina Kerr have requested the County's consent to the Port City Sublease; and

WHEREAS, the material considerations for County's consent to the Port City Sublease are continued operation of the vocational training center on the Premises, which is being accomplished through the Port City Sublease and Port City's transfer of its operating agreements to Albertina Kerr, and Port City's agreement to deliver to County, in partial satisfaction of Port City's obligations under the County Sublease, the monthly rental paid by Albertina Kerr under the Port City Sublease;

NOW, **THEREFORE**, in consideration of the above recitals, which are a material part of this Consent, and in consideration of Port City's endorsement over and prompt delivery to County of each monthly rental check paid by Albertina Kerr, County hereby consents to the Port City Sublease, effective as of the date set forth below.

County:

MULTNOMAH COUNTY, OREGON,
a political subdivision of the State of Oregon

By: _____

Jeff Cogen
Chair

Reviewed and approved:

JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By: _____

Kenneth M. Elliott
Assistant County Attorney

Date: _____

March 21, 2013

Port City:

THE PORT CITY DEVELOPMENT CENTER,
an Oregon nonprofit corporation

By: _____

(Print Name) _____

President, Board of Directors

Date: _____

Albertina Kerr:

ALBERTINA KERR CENTERS, INC.,
an Oregon nonprofit corporation

By: _____

Christopher J. Krenk
President & CEO

Date: _____

EXHIBIT "A"

Legal Description of the Premises

PARCEL 1: The West 85 feet of Lots 25 and 26, and the South 10 feet of the West 85 feet of Lot 24, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, and

PARCEL 2: That part of Lots 24, 25, and 26, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, described as follows, to wit:

Beginning at the Southeast corner of said Lot 26, and thence running Northerly along the East lines of said Lots, 110 feet; thence Westerly and parallel with the South line of said Lot 24, a distance of 40 feet; thence Southerly and parallel with the East lines of said Lots, 110 feet to the South line of said Lot 26; and thence Easterly 40 feet to the place of beginning.

EXHIBIT "B"

Executed Copy of Port City Sublease

SUBLEASE

THIS SUBLEASE ("**Sublease**") is made and entered effective as of the 31st day of January, 2013, by and between The Port City Development Center, an Oregon nonprofit corporation ("**Port City**") and Albertina Kerr Centers, Inc., an Oregon nonprofit corporation ("**Albertina Kerr**").

WITNESSETH:

A. Port City, as landlord, and County of Multnomah ("**County**") entered into that certain Ground Lease Agreement dated November 1, 2000 and amended on July 25, 2002 ("**Ground Lease**"), covering and describing the premises known as 2124 N Williams Avenue, Portland, Oregon ("**Premises**"), a true and correct copy of the Ground Lease and Lease Amendment being attached hereto as Exhibits A & B and made a part hereof for all purposes.

B. County, as sublandlord, and Port City, as subtenant entered into that certain Sublease Agreement dated November 1, 2000 with a First Amendment dated July 25, 2002 and a Second Amendment dated November 29, 2007 ("**Sublease 1**"), covering and describing the **Premises**, a true and correct copy of the Sublease being attached hereto as Exhibits C, D, and E and made a part hereof for all purposes.

C. Port City desires to sub-sublease the Premises to Albertina Kerr, and Albertina Kerr desires to sub-sublease the Premises from Port City upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, Port City and Albertina Kerr hereby agree as follows:

1. **Subleased Premises.** Port City hereby subleases to Albertina Kerr, and Albertina Kerr hereby subleases from Port City, all the Premises ("**Subleased Premises**").

2. **Term.** Subject to and upon the terms and conditions hereinafter set forth, this Sublease shall be in force on a month-to-month basis ("**Sublease Term**") commencing on February 1, 2013.

3. **Base Sublease Rental.** Albertina Kerr agrees to pay to Port City as rent ("**Base Sublease Rental**") for the Subleased Premises the cash sum of \$3,350 per month. Base Sublease Rental shall be payable in advance to Port City on the first day of each calendar month throughout the Sublease Term, at the following address (or such other address as may be designated by Port City from time to time):

Terry Loerke, Treasurer
The Port City Development Center
2720 SW Corbett Avenue
Portland, OR 97201

Albertina Kerr agrees to pay all Base Sublease Rental and additional sums due under this Sublease to Port City without demand, counterclaim, or set-off.

4. **Utilities.** Albertina Kerr shall be responsible for all utilities consumed at the Subleased Premises, including, but not limited to, electricity, gas, telephone, water, sewer and trash pickup and disposal.

5. **Parking.** During the Sublease Term, Albertina Kerr shall be entitled to use and enjoy any parking rights available to County under the Ground Lease and/or Port City under Sublease 1 in addition to any additional parking rights granted pursuant to this Sublease, if any.

6. **Ground Lease.** This Sublease is subject to all the provisions, terms, covenants, and conditions of the Ground Lease and Sublease 1.

6.1 **Duties and Obligations.** Albertina Kerr assumes and agrees to perform and observe all provisions, terms, covenants, and conditions of the "tenant" under the Ground Lease and Sublease 1 as the same relate to the Subleased Premises and to Albertina Kerr's use and occupancy of the same during the Sublease Term, except as may be expressly provided to the contrary herein. Except to the extent assumed by Albertina Kerr in this Sublease, Port City agrees to fully and timely perform all of the "landlord" duties and obligations under the Ground Lease and Sublease 1;

6.2 **Entire Agreement.** Port City warrants and represents that (i) the Ground Lease and (ii) Sublease 1 represents Port City's entire agreement with the County relating to the Premises;

6.3 **Representations.** Port City advises Albertina Kerr that Port City is two (2) months in arrears on Port City's payments under Sublease 1 and the County has delivered notice to Port City that Port City is in default under the Sublease (collectively, "**Current Default**"). Port City acknowledges that (i) Port City shall be solely liable to the County for all cost and expense to the County related to the Current Default and (ii) Albertina Kerr shall have no liability associated with the Current Default. Except for the Current Default, Port City warrants and represents that Port City has received no notice, and has no actual knowledge, of (1) any default by the County or any breach by Port City of any of its obligations under the Ground Lease; and/or (2) any default by the Port City or any breach by the County of any of its obligations under Sublease 1; and

6.4 **Modification.** Port City agrees to refrain from entering into any amendment to or modification of the Ground Lease and/or Sublease 1 that would conflict with or materially limit the rights granted to Albertina Kerr by this Sublease.

7. **Repair of Subleased Premises.**

7.1 To the extent Port City has obligations as the landlord to County pursuant to the Ground Lease regarding repair, maintenance, or condition of the Subleased Premises or building, Port City agrees to use reasonable diligence to perform the same for the benefit of Albertina Kerr, when applicable;

7.2 To the extent County has obligations to Port City pursuant to Sublease 1 regarding repair, maintenance, or condition of the Subleased Premises or building, Port City

agrees to use reasonable diligence to cause the County to perform the same for the benefit of Albertina Kerr, when applicable.

7.3 Except as provided above, Albertina Kerr shall repair, maintenance, or condition of the Subleased Premises pursuant to this Sublease.

8. **Use.** Albertina Kerr agrees to use the Subleased Premises only for the purposes permitted by the Ground Lease and Sublease 1 and for no other purposes, all in accordance with applicable law.

9. **Port City's Acts.** Albertina Kerr shall not be responsible for the discharge and performance of the duties and obligations required to be performed and/or discharged by Port City and/or County in connection with the Ground Lease and/or Sublease 1 prior to the commencement of the Sublease Term. In that regard, Port City indemnifies, and agrees to defend, with counsel chosen by Albertina Kerr, and hold Albertina Kerr harmless from and against any and all loss, cost, expense, or liability (including, without limitation, attorneys' fees, accountants' fees, and court costs) resulting from any claims or causes of action existing in favor of or asserted by any party arising out of or relating to Port City's failure to perform any duties or obligations imposed on Port City under the Ground Lease and/or Sublease 1 with respect to periods beginning before the commencement of the Sublease Term, including, without implied limitation, related to the Current Default.

10. **Port City's Remedies.** Port City shall be entitled to all the rights and remedies available to Landlord under the Ground Lease following an event of default by County thereunder and to any other rights and remedies available to a landlord under applicable law. Port City shall be entitled to all the rights and remedies available to Port City under this Sublease following an event of default by Albertina Kerr. Upon any default by Albertina Kerr under this Sublease and the expiration of any and all applicable notice and cure periods, Port City, without being under any obligation to do so and without thereby waiving such default, may make such payment or remedy such other default for the account of Albertina Kerr, and thereupon Albertina Kerr agrees to and shall pay to Port City, immediately upon demand, all reasonable costs, expenses, and disbursements incurred by Port City in taking such remedial action.

11. **Default by Port City.** Any provision in this Sublease or the Ground Lease to the contrary notwithstanding, if Port City fails to perform its obligations under this Sublease and such failure (a) interferes substantially with the normal use of the Subleased Premises as allowed in this Sublease, and (b) continues for more than three (3) consecutive days, then the Base Sublease Rental shall be proportionately abated until such interference is eliminated or the Subleased Premises are otherwise rendered tenantable again. If Port City fails to perform its obligations under the Ground Lease, Sublease 1 or this Sublease and the interference resulting therefrom continues for a period of thirty (30) or more consecutive days, then Albertina Kerr shall have the right and option to cancel the Sublease by giving written notice to Port City after the end of such thirty (30) day period.

12. **Quiet Enjoyment.** Albertina Kerr shall peacefully have, hold, and enjoy the Subleased Premises, subject to the terms and conditions of this Sublease, Sublease 1 and the

Ground Lease, provided that Albertina Kerr timely and fully performs all of its covenants, duties, and obligations under this Sublease.

13. Governing Law. This Sublease shall be governed by and construed in accordance with the internal laws of Oregon, without regard to the conflicts of laws principles thereof. To the extent they may lawfully do so, Port City and Albertina Kerr agree that venue for any litigation between them related to this Sublease shall be in courts (federal or state) sitting in Multnomah County.

14. Notices. Any notice or other communication to any party required or permitted to be given under this Sublease must be in writing and shall be effectively given if hand delivered or if sent by United States Mail, postage prepaid, certified or registered, return receipt requested, to the following addresses:

If to Port City:

Terry Loerke, Treasurer
The Port City Development Center
2720 SW Corbett Avenue
Portland, OR 97201

If to Albertina Kerr:

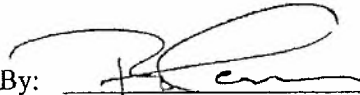
Chris Krenk, President and CEO
Albertina Kerr Centers
424 NE 22nd Avenue
Portland, OR 97232

Any notice mailed shall be deemed to have been given on the second (2nd) business day following the date of deposit of such item in a depository of the United States Postal Service. Notice effected by hand delivery or facsimile shall be deemed to have been given at the time of actual delivery. Any party shall have the right to change its address to which notices shall thereafter be sent by giving the other parties notice thereof.

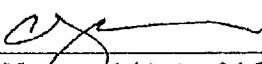
15. Successors and Assigns. This Sublease shall be binding upon and shall inure to the benefit of Port City, Albertina Kerr and their respective successors and assigns.

EXECUTED on the day and date first written above.

PORT CITY:

By: 
Printed Name: Terry Loenke
Title: Board Member

ALBERTINA KERR:

By: 
Printed Name: CHRISTOPHER J. KRENKE
Title: President + CEO

TERMINATION OF GROUND LEASE AGREEMENT

This Termination of Ground Lease Agreement (this "Termination"), is made and entered into as of the 21st day of March, 2013 by and between **The Port City Development Center**, an Oregon not for profit corporation, as Ground Lessor ("Port City"), and **Multnomah County, Oregon**, a political subdivision of the State of Oregon, as Ground Lessee ("County").

RECITALS:

WHEREAS, on November 7, 2000, County issued its \$2,000,000 Motor Vehicle Rental Tax Revenue Bonds, Series 2000A (501(c)(3)) (the "Bonds") to finance the construction, renovation, improvement and equipping of certain facilities on real property acquired by Port City at 2124 N. Williams Ave., Portland, further described in Exhibit "A" attached hereto (the "Premises"), for use as a vocational training center subleased and operated by Port City;

WHEREAS, on November 1, 2000, Port City and County entered into a Ground Lease Agreement ("Ground Lease") of the Premises from Port City to County, and a Sublease Agreement, of the Premises from County to Port City, providing for Port City's payment of monthly rent to be used by County to repay the Bonds (the "Sublease");

WHEREAS, on November 29, 2007, Port City and County entered into a First Amendment to Ground Lease;

WHEREAS, the amendment to the Ground Lease extended the Ground Lease Term to correspond with the Sublease, as amended, permitting Port City's full payment of the Rental Amounts over an extended term. Despite such accommodations, Port City has not been able to keep current on payment of monthly Rental Amounts;

WHEREAS, by letter dated January 9, 2013, County provided Port City written notice of a Sublease Default in accordance with Section 11.1(a) of the Sublease;

WHEREAS, Section 3.3 of the Ground Lease provides that, if the Sublease is terminated based on a Sublease Default, County shall be entitled to exclusive possession and use of the Premises until the ninety-nine (99) year remaining Term of the Ground Lease expires, subject however to the rights of Port City to sell and the rights of County to purchase or sell the Premises under Section 11.2 of the Sublease;

WHEREAS, Port City has notified County of Port City's intent to discontinue its use of the Premises, its intent not to continue to occupy the Premises after February 1, 2013, or attempt to sell the Premises, and its willingness to convey its right, title and interest in and to the Premises to County in full satisfaction of Port City's obligation to pay the total Rental Amounts required by the Sublease; and

WHEREAS, Port City and County desire to terminate the Ground Lease effective upon Port City's delivery of its deed conveying the Premises to County, in accordance with the terms and conditions set forth in this Termination;

NOW, THEREFORE, in consideration of the above recitals, which are a material part of this Termination, and the mutual covenants and agreements set forth herein, Port City and County hereby agree as follows:

AGREEMENTS:

- 1. Terms Defined in the Ground Lease.** Except as modified herein, or unless the context shall clearly indicate some other meaning, all words and terms used in this Termination that are defined in the Ground Lease shall, for all purposes of this Termination, have the respective meanings given to them in the Ground Lease.
- 2. Port City's Conveyance of the Premises to County.** Effective upon execution of the Termination of Sublease, Port City shall execute and deliver a statutory bargain and sale deed, in the form attached as Exhibit "B," to the Termination of Sublease, conveying ownership of the Premises to County.
- 3. County's Title.** The parties agree and acknowledge that County's intent in accepting Port City's conveyance of title is to secure proceeds to reimburse County's repayment of the Bonds and is, therefore, "primarily to protect a security interest" as that phrase is used and defined in ORS 465.200 et seq. and OAR 340-122-120.
- 4. Relinquishment of Premises.** Effective upon Port City's delivery of its statutory bargain and sale deed to County, Port City shall relinquish possession of the Premises to County and shall remove Port City's personal property from the Premises, except for any equipment, fixtures, supplies and records needed for continuation of the vocational training services on the Premises.
- 5. Termination of Ground Lease Agreement.** Effective upon Port City's performance of its obligations set forth in Paragraphs 2 and 4, the Ground Lease shall be terminated and Port City shall be released of all claims and liabilities to County, its successors and assigns, relating to the Premises, the Rental Amounts and the bonded indebtedness. All decisions of County relating to the Premises after execution of this Termination, including entry into a replacement lease with another qualified vocational services provider, the level of maintenance of the Premises, or disposition of the Premises or conversion of the Premises to another use, shall be made by County in County's absolute and unfettered discretion.

6. **Execution in Counterparts.** This Termination may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Termination as of this ____ day of _____, 2013.

Port City:

THE PORT CITY DEVELOPMENT CENTER,
an Oregon not for profit corporation

By: _____
(Print Name) _____
President, Board of Directors

County:

MULTNOMAH COUNTY, OREGON, a political
subdivision of the State of Oregon

By: _____
Jeff Cogen
Chair

REVIEWED:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON


By: 
Kenneth M. Elliott
Assistant County Attorney

EXHIBIT "A"

Legal Description of the Premises

PARCEL 1: The West 85 feet of Lots 25 and 26, and the South 10 feet of the West 85 feet of Lot 24, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, and

PARCEL 2: That part of Lots 24, 25, and 26, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, described as follows, to wit:

Beginning at the Southeast corner of said Lot 26, and thence running Northerly along the East lines of said Lots, 110 feet; thence Westerly and parallel with the South line of said Lot 24, a distance of 40 feet; thence Southerly and parallel with the East lines of said Lots, 110 feet to the South line of said Lot 26; and thence Easterly 40 feet to the place of beginning.

TERMINATION OF SUBLEASE AGREEMENT

This Termination of Sublease Agreement (this "Termination"), is made and entered into as of the 21st day of March, 2013 by and between **Multnomah County, Oregon**, a political subdivision of the State of Oregon, as Sublessor ("County"), and **The Port City Development Center**, an Oregon not for profit corporation, as Sublessee ("Port City").

RECITALS:

WHEREAS, on November 7, 2000, County issued its \$2,000,000 Motor Vehicle Rental Tax Revenue Bonds, Series 2000A (501(c)(3)) (the "Bonds") to finance the construction, renovation, improvement and equipping of certain facilities on real property acquired by Port City at 2124 N. Williams Ave., Portland, further described in Exhibit "A" attached hereto (the "Premises"), for use as a vocational training center subleased and operated by Port City;

WHEREAS, on November 1, 2000, County and Port City entered into a Ground Lease Agreement ("Ground Lease") of the Premises from Port City to County, and a Sublease Agreement, of the Premises from County to Port City, providing for Port City's payment of monthly rent to be used by County to repay the Bonds (the "Sublease");

WHEREAS, on July 25, 2002, County and Port City amended and supplemented the Ground Lease and the Sublease;

WHEREAS, on November 29, 2007, County and Port City entered into a Second Amendment to Sublease;

WHEREAS, both amendments to the Sublease reduced the required monthly Rental Amounts and extended the Sublease Term for Port City's full payment of the Rental Amounts. Despite such accommodations, Port City has not been able to keep current on payment of monthly Rental Amounts;

WHEREAS, by letter dated January 9, 2013, County provided Port City written notice of a Sublease Default in accordance with Section 11.1(a) of the Sublease;

WHEREAS, Section 11.2 (e) of the Sublease, as amended by the Second Amendment, granted Port City, in the event of a Sublease Default for non-payment of rent and for so long as Port City remained in full compliance with all other terms of the Sublease, the right to sell the Premises on or before one year from the date set forth in the notice of Sublease Default and to occupy the Premises for the uses permitted by the Sublease pending the sale.

WHEREAS, Port City has notified County of Port City's intent to discontinue its use of the Premises, its intent not to continue to occupy the Premises after February 1, 2013, or attempt to sell the Premises, and its willingness to convey its right, title and interest in and to the Premises to County, in full satisfaction of its obligation to pay the total Rental Amounts required by the Sublease;

WHEREAS, a material consideration for County's release of Port City from its full payment of the Rental Amounts is continued operation of the vocational training center on the Premises, through Port City's transfer of its operating agreements to another qualified vocational services provider;

WHEREAS, during the term of the Sublease, County has not "participate[d] in the management of a facility" as that phrase is used and defined in Oregon Revised Statutes (ORS) 465.200 et seq. and Oregon Administrative Rules (OAR) 340-122-120 concerning the Premises, and is prepared to accept title to secure repayment of the Bonds and therefore "primarily to protect a security interest" as that phrase is used and defined in ORS 465.200 et seq. and OAR 340-122-120; and

WHEREAS, County and Port City desire to terminate the Sublease, in accordance with the terms and conditions set forth in this Termination;

NOW, THEREFORE, in consideration of the above recitals, which are a material part of this Termination, and the mutual covenants and agreements set forth herein, County and Port City hereby agree as follows:

AGREEMENTS:

- 1. Terms Defined in the Sublease.** Except as modified herein, or unless the context shall clearly indicate some other meaning, all words and terms used in this Termination that are defined in the Sublease shall, for all purposes of this Termination, have the respective meanings given to them in the Sublease.
- 2. Waiver of Port City's Right to Sell the Premises.** Port City hereby waives its right, as provided in Section 11.2 (e) of the Sublease, to sell the Premises on or before one year from the date set forth in the notice of Sublease Default and to occupy the Premises for the uses permitted by the Sublease Agreement pending the sale.
- 3. Transfer of Port City Operating Agreements.** Effective upon execution of this Termination, Port City shall transfer its operating agreements to another qualified vocational services provider, to assure uninterrupted continuation of the vocational training services on the Premises serving developmentally disabled Multnomah County residents.
- 4. Port City's Conveyance of the Premises to County.** Effective upon execution of this Termination, Port City shall execute and deliver a statutory bargain and sale deed, in the form attached hereto as Exhibit "B," conveying ownership of the Premises to County, provided, however, that County acknowledges certain environmental and land use restrictions, listed as Permitted Encumbrances in Exhibit "C" attached hereto, encumber title to the Premises and will not be removed as part of Port City's conveyance.
- 5. County's Title.** The parties agree and acknowledge that County's intent in accepting Port City's conveyance of title is to secure proceeds to reimburse County's repayment of the Bonds and is, therefore, "primarily to protect a security interest" as that phrase is used and defined in ORS 465.200 et seq. and OAR 340-122-120.

6. **Relinquishment of Premises.** Effective upon Port City's delivery of its statutory bargain and sale deed to County, Port City shall relinquish possession of the Premises to County and shall remove Port City's personal property from the Premises, except for any equipment, fixtures, supplies and records needed for continuation of the vocational training services on the Premises.

7. **Termination of Sublease Agreement.** Effective upon Port City's performance of its obligations set forth in Paragraphs 3, 4 and 5, the Sublease shall be terminated and Port City shall be released of all claims and liabilities to County, its successors and assigns, relating to the Premises, the Rental Amounts and the bonded indebtedness. All decisions of County relating to the Premises after execution of this Termination, including entry into a replacement lease with another qualified vocational services provider, the level of maintenance of the Premises, or disposition of the Premises or conversion of the Premises to another use, shall be made by County in County's absolute and unfettered discretion.

8. **Execution in Counterparts.** This Termination may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Termination as of this ____ day of _____, 2013.

County:

MULTNOMAH COUNTY, OREGON, a political subdivision of the State of Oregon

By: _____
Jeff Cogen
Chair

REVIEWED:

JENNY M. MORE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By: _____

Kenneth M. Elliott
Assistant County Attorney

Port City:

THE PORT CITY DEVELOPMENT CENTER,
an Oregon not for profit corporation

By: _____
(Print Name) _____
President, Board of Directors

EXHIBIT "A"

Legal Description of the Premises

PARCEL 1: The West 85 feet of Lots 25 and 26, and the South 10 feet of the West 85 feet of Lot 24, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, and

PARCEL 2: That part of Lots 24, 25, and 26, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, described as follows, to wit:

Beginning at the Southeast corner of said Lot 26, and thence running Northerly along the East lines of said Lots, 110 feet; thence Westerly and parallel with the South line of said Lot 24, a distance of 40 feet; thence Southerly and parallel with the East lines of said Lots, 110 feet to the South line of said Lot 26; and thence Easterly 40 feet to the place of beginning.

EXHIBIT "B"

Bargain & Sale Deed for Port City's Conveyance of the Premises

TERMINATION OF SUBLEASE AGREEMENT

This Termination of Sublease Agreement (this "Termination"), is made and entered into as of the ____ day of March, 2013 by and between **Multnomah County, Oregon**, a political subdivision of the State of Oregon, as Sublessor ("County"), and **The Port City Development Center**, an Oregon not for profit corporation, as Sublessee ("Port City").

RECITALS:

WHEREAS, on November 7, 2000, County issued its \$2,000,000 Motor Vehicle Rental Tax Revenue Bonds, Series 2000A (501(c)(3)) (the "Bonds") to finance the construction, renovation, improvement and equipping of certain facilities on real property acquired by Port City at 2124 N. Williams Ave., Portland, further described in Exhibit "A" attached hereto (the "Premises"), for use as a vocational training center subleased and operated by Port City;

WHEREAS, on November 1, 2000, County and Port City entered into a Ground Lease Agreement ("Ground Lease") of the Premises from Port City to County, and a Sublease Agreement, of the Premises from County to Port City, providing for Port City's payment of monthly rent to be used by County to repay the Bonds (the "Sublease");

WHEREAS, on July 25, 2002, County and Port City amended and supplemented the Ground Lease and the Sublease;

WHEREAS, on November 29, 2007, County and Port City entered into a Second Amendment to Sublease;

WHEREAS, both amendments to the Sublease reduced the required monthly Rental Amounts and extended the Sublease Term for Port City's full payment of the Rental Amounts. Despite such accommodations, Port City has not been able to keep current on payment of monthly Rental Amounts;

WHEREAS, by letter dated January 9, 2013, County provided Port City written notice of a Sublease Default in accordance with Section 11.1(a) of the Sublease;

WHEREAS, Section 11.2 (e) of the Sublease, as amended by the Second Amendment, granted Port City, in the event of a Sublease Default for non-payment of rent and for so long as Port City remained in full compliance with all other terms of the Sublease, the right to sell the Premises on or before one year from the date set forth in the notice of Sublease Default and to occupy the Premises for the uses permitted by the Sublease pending the sale.

WHEREAS, Port City has notified County of Port City's intent to discontinue its use of the Premises, its intent not to continue to occupy the Premises after February 1, 2013, or attempt to sell the Premises, and its willingness to convey its right, title and interest in and to the Premises to County, in full satisfaction of its obligation to pay the total Rental Amounts required by the Sublease;

WHEREAS, a material consideration for County's release of Port City from its full payment of the Rental Amounts is continued operation of the vocational training center on the Premises, through Port City's transfer of its operating agreements to another qualified vocational services provider;

WHEREAS, during the term of the Sublease, County has not "participate[d] in the management of a facility" as that phrase is used and defined in Oregon Revised Statutes (ORS) 465.200 et seq. and Oregon Administrative Rules (OAR) 340-122-120 concerning the Premises, and is prepared to accept title to secure repayment of the Bonds and therefore "primarily to protect a security interest" as that phrase is used and defined in ORS 465.200 et seq. and OAR 340-122-120; and

WHEREAS, County and Port City desire to terminate the Sublease, in accordance with the terms and conditions set forth in this Termination;

NOW, THEREFORE, in consideration of the above recitals, which are a material part of this Termination, and the mutual covenants and agreements set forth herein, County and Port City hereby agree as follows:

AGREEMENTS:

- 1. Terms Defined in the Sublease.** Except as modified herein, or unless the context shall clearly indicate some other meaning, all words and terms used in this Termination that are defined in the Sublease shall, for all purposes of this Termination, have the respective meanings given to them in the Sublease.
- 2. Waiver of Port City's Right to Sell the Premises.** Port City hereby waives its right, as provided in Section 11.2 (e) of the Sublease, to sell the Premises on or before one year from the date set forth in the notice of Sublease Default and to occupy the Premises for the uses permitted by the Sublease Agreement pending the sale.
- 3. Transfer of Port City Operating Agreements.** Effective upon execution of this Termination, Port City shall transfer its operating agreements to another qualified vocational services provider, to assure uninterrupted continuation of the vocational training services on the Premises serving developmentally disabled Multnomah County residents.
- 4. Port City's Conveyance of the Premises to County.** Effective upon execution of this Termination, Port City shall execute and deliver a statutory bargain and sale deed, in the form attached hereto as Exhibit "B," conveying ownership of the Premises to County, provided, however, that County acknowledges certain environmental and land use restrictions, listed as Permitted Encumbrances in Exhibit "C" attached hereto, encumber title to the Premises and will not be removed as part of Port City's conveyance.
- 5. County's Title.** The parties agree and acknowledge that County's intent in accepting Port City's conveyance of title is to secure proceeds to reimburse County's repayment of the Bonds and is, therefore, "primarily to protect a security interest" as that phrase is used and defined in ORS 465.200 et seq. and OAR 340-122-120.

6. Relinquishment of Premises. Effective upon Port City's delivery of its statutory bargain and sale deed to County, Port City shall relinquish possession of the Premises to County and shall remove Port City's personal property from the Premises, except for any equipment, fixtures, supplies and records needed for continuation of the vocational training services on the Premises.

7. Termination of Sublease Agreement. Effective upon Port City's performance of its obligations set forth in Paragraphs 3, 4 and 5, the Sublease shall be terminated and Port City shall be released of all claims and liabilities to County, its successors and assigns, relating to the Premises, the Rental Amounts and the bonded indebtedness. All decisions of County relating to the Premises after execution of this Termination, including entry into a replacement lease with another qualified vocational services provider, the level of maintenance of the Premises, or disposition of the Premises or conversion of the Premises to another use, shall be made by County in County's absolute and unfettered discretion.

8. Execution in Counterparts. This Termination may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Termination as of this ____ day of _____, 2013.

County:

MULTNOMAH COUNTY, OREGON, a political subdivision of the State of Oregon

By: _____
Jeff Cogen
Chair

REVIEWED:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By: _____
Kenneth M. Elliott
Assistant County Attorney

Port City:

THE PORT CITY DEVELOPMENT CENTER,
an Oregon not for profit corporation

By: _____
(Print Name) _____
President, Board of Directors

EXHIBIT "A"

Legal Description of the Premises

PARCEL 1: The West 85 feet of Lots 25 and 26, and the South 10 feet of the West 85 feet of Lot 24, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, and

PARCEL 2: That part of Lots 24, 25, and 26, Block 23, ALBINA, in the City of Portland, County of Multnomah and State of Oregon, described as follows, to wit:

Beginning at the Southeast corner of said Lot 26, and thence running Northerly along the East lines of said Lots, 110 feet; thence Westerly and parallel with the South line of said Lot 24, a distance of 40 feet; thence Southerly and parallel with the East lines of said Lots, 110 feet to the South line of said Lot 26; and thence Easterly 40 feet to the place of beginning.

EXHIBIT "B"

Bargain & Sale Deed for Port City's Conveyance of the Premises

After recording return to:

Office of County Attorney (KME)
Multnomah County
501 SE Hawthorne Blvd., Suite 500
Portland, OR 97214

**Until a change is requested, all
tax statements shall be sent to:**

Multnomah County
501 SE Hawthorne Blvd., Suite 500
Portland, OR 97214

STATUTORY BARGAIN AND SALE DEED
(Statutory Form)

THE PORT CITY DEVELOPMENT CENTER, an Oregon not for profit corporation ("GRANTOR"), conveys to **MULTNOMAH COUNTY**, a political subdivision of the State of Oregon ("GRANTEE"), the real property described in Exhibit "A" attached hereto and by this reference incorporated herein (the "Property"), subject to the Permitted Encumbrances to Title listed in Exhibit "B," attached hereto.

The true and actual consideration for this conveyance is discharge and satisfaction of Grantor's Rental Amounts of \$1,557,300, as of January 31, 2013, due and payable to reimburse Grantee's financing of Grantor's acquisition and improvement of the Property, and also consists of other valuable consideration, which is part of the consideration. As required by ORS 93.040, notice is given that:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER 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.

DATED this ____ day of March, 2013.

THE PORT CITY DEVELOPMENT CENTER,
an Oregon not for profit corporation

By: _____
(Name) _____
President of the Board

STATUTORY BARGAIN AND SALE DEED

STATE OF OREGON)
) ss.
County of Multnomah)

On March ____, 2013, personally appeared _____, who, being duly sworn, did say that s/he is the **President of the Board of THE PORT CITY DEVELOPMENT CENTER**, an Oregon not for profit corporation, and that the foregoing instrument was signed on behalf of said corporation; and s/he acknowledged the instrument to be its voluntary act and deed.

NOTARY PUBLIC FOR OREGON

My Commission expires: _____

**ACCEPTANCE OF CONVEYANCE OF TITLE TO REAL PROPERTY
TO MULTNOMAH COUNTY, OREGON**

The attached Bargain and Sale Deed, dated March ____, 2013, from **THE PORT CITY DEVELOPMENT CENTER**, an Oregon not for profit corporation, **Grantor**, conveying, without representations or warranties of any kind, the real property further described in Exhibit "A" attached hereto, in the County of Multnomah and State of Oregon, to **MULTNOMAH COUNTY**, a political subdivision of the State of Oregon, **Grantee**; IS ACCEPTED by Multnomah County, Oregon, acting by and through the Chair of the Multnomah County Board of Commissioners, pursuant to Resolution No. _____, duly adopted by the County Board of Commissioners at a regularly scheduled meeting of the County Board on March ____, 2013.

Dated this ____ day of _____, 2013.

By: _____
Jeff Cogen, County Chair

REVIEWED:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By: _____
Kenneth M. Elliott
Assistant County Attorney

EXHIBIT "A"

Legal Description of the Property

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EXHIBIT "B"

Permitted Encumbrances

1. Taxes, a lien not yet payable.
2. Conditions and Restrictions, including the terms and provisions thereof, established by City of Portland:
Planning and Zoning Code Variance No. VZ 97-70
Recorded : June 02, 1970
Book : 735
Page : 1748
3. Conditions and Restrictions, including the terms and provisions thereof, established by City of Portland:
Ordinance No.: 148384
Recorded : September 14, 1979
Book : 1382
Page : 2665
4. Environmental Notice, including the terms and provisions thereof:
Regarding : Environmental soil contamination
Between : State of Oregon Department of Environmental Quality (DEQ)
Recorded : January 14, 1998
Fee No. : 98005402
5. Prospective Purchaser Agreement, including the terms and provisions thereof:
Regarding : Soil contamination by hazardous substances
Between : Oregon Department of Environmental Quality (DEQ)
And : Port City Development Center
Recorded : October 08, 1998
Fee No. : 98181538
6. Conditions and Restrictions, including the terms and provisions thereof, established by City of Portland:
Ordinance No.: 99-00322 CU DZ AD
Recorded : October 11, 1999
Fee No. : 99188651

EXHIBIT "C"

Permitted Encumbrances to Title

Permitted Encumbrances

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STATUTORY BARGAIN AND SALE DEED
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The true and actual consideration for this conveyance is discharge and satisfaction of Grantor's Rental Amounts of \$1,557,300, as of January 31, 2013, due and payable to reimburse Grantee's financing of Grantor's acquisition and improvement of the Property, and also consists of other valuable consideration, which is part of the consideration. As required by ORS 93.040, notice is given that:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER 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.

DATED this ____ day of March, 2013.

STATUTORY BARGAIN AND SALE DEED

THE PORT CITY DEVELOPMENT CENTER,
an Oregon not for profit corporation

By: _____

(Name) _____

President of the Board

STATE OF OREGON)
) ss.
County of Multnomah)

On March ____, 2013, personally appeared _____, who, being duly sworn, did say that s/he is the **President of the Board** of **THE PORT CITY DEVELOPMENT CENTER**, an Oregon not for profit corporation, and that the foregoing instrument was signed on behalf of said corporation; and s/he acknowledged the instrument to be its voluntary act and deed.

NOTARY PUBLIC FOR OREGON
My Commission expires: _____

**ACCEPTANCE OF CONVEYANCE OF TITLE TO REAL PROPERTY
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The attached Bargain and Sale Deed, dated March ____, 2013, from **THE PORT CITY DEVELOPMENT CENTER**, an Oregon not for profit corporation, **Grantor**, conveying, without representations or warranties of any kind, the real property further described in Exhibit "A" attached hereto, in the County of Multnomah and State of Oregon, to **MULTNOMAH COUNTY**, a political subdivision of the State of Oregon, **Grantee**; IS ACCEPTED by Multnomah County, Oregon, acting by and through the Chair of the Multnomah County Board of Commissioners, pursuant to Resolution No. 2013-029, duly adopted by the County Board of Commissioners at a regularly scheduled meeting of the County Board on March 21, 2013.

Dated this ____ day of _____, 2013.

By: _____
Jeff Cogen, County Chair

REVIEWED:
JENNY M. MORF, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By: Kenneth M. Elliott
Kenneth M. Elliott
Assistant County Attorney

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