



Request for Proposals 2.3-Acre Development Opportunity US 101 and SE 35th Street, Newport

Urban Renewal Agency of the
City of Newport, Oregon
April, 2024

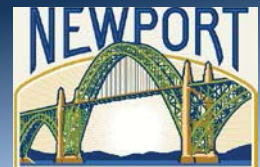


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INTRODUCTION

The Urban Renewal Agency of the City of Newport, Oregon (“Agency”) is seeking to partner with a private developer(s) to redevelop 2.3 acres in the City’s South Beach neighborhood with retail service uses to serve those that live, work or visit the area. Potential uses may include a specialty grocer, general merchandiser, micro-restaurant/food carts, or small-scale mixed retail/office/service uses.

Nestled on the south side of the Yaquina Bay Bridge, South Beach is developed with a mix of regional institutions, recreational facilities, neighborhoods, and retail businesses, including the popular Oregon Coast Aquarium, Hatfield Marine Science Center, OMSI’s Camp Gray, Oregon Coast Community College, Newport Municipal Airport, and the Port of Newport’s South Beach Marina and RV Park. The City’s largest residential planned development is also located in South Beach, known as the “Wilder” community.



Agency’s property is situated at the northeast corner of the newly signalized intersection of US 101 and SE 35th Street. The few remaining buildings will be removed, and the site will be made available in a ready to develop condition with requisite utilities and public services. The

site frontage is fully developed with new driveway approaches, sidewalk, a multi-use path, underground utilities and street lighting.

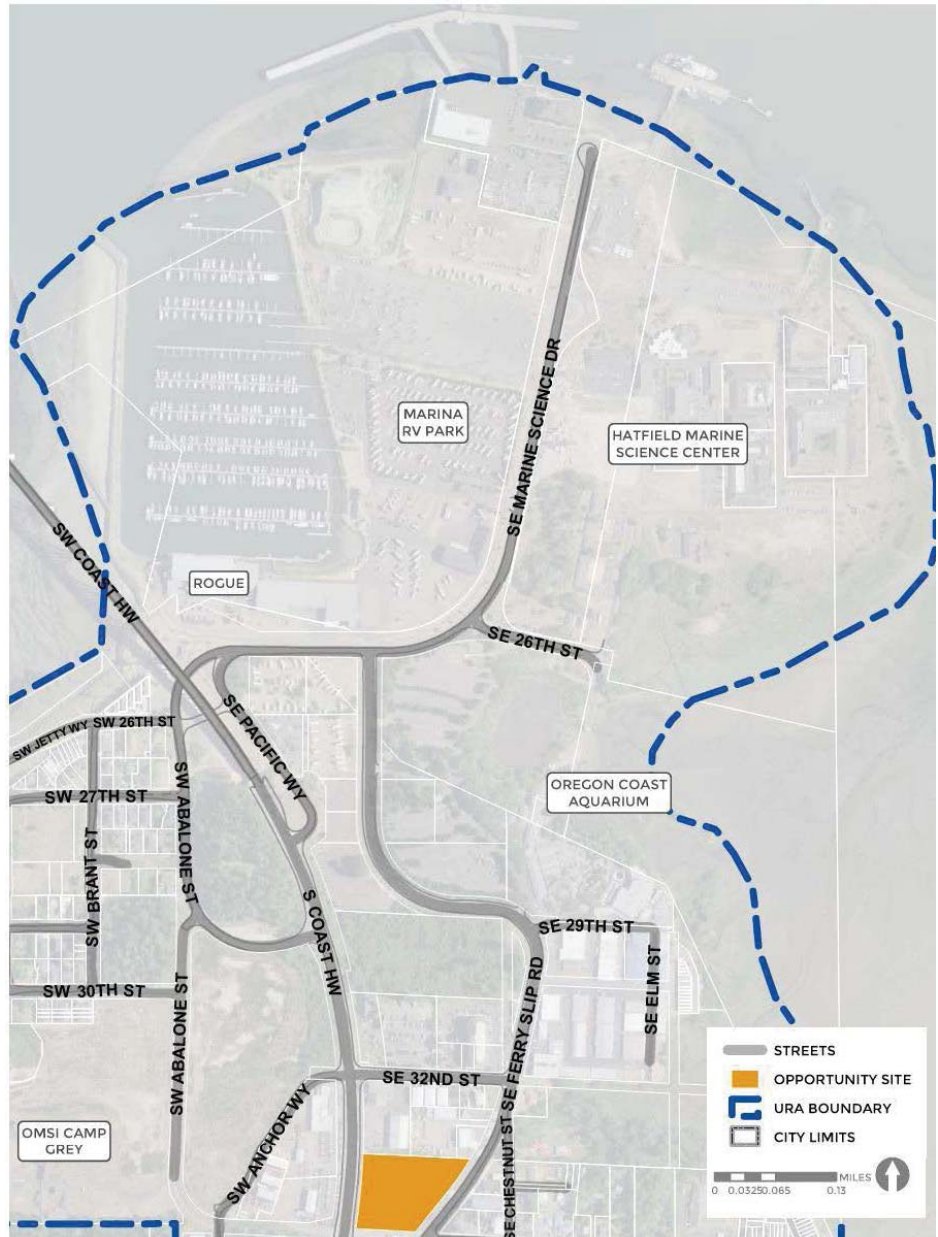
Through development and sale of the site, Agency seeks to achieve one or more of the following objectives (1) create a neighborhood hub and gateway to South Beach, (2) support food entrepreneurs and surrounding businesses, (3) provide a gathering space for residents and visitors with a variety of retail and/or restaurant choices; and (4) create a stopping point for users of the South Beach pedestrian and cycling network that connects the site with key destinations.

SITE CONTEXT

Agency’s vision for the 2.3 acre site and surrounding area is that it will become a gateway to South Beach. Its visible and central location on US 101 could attract investments in buildings that could house additional services or retail (e.g. specialty grocery, restaurants, shops) as well as a central gathering space for eating and convening of groups to serve South Beach area residents and employees.

The site will also serve as a key node along South Beach’s iconic bicycle and pedestrian loop, which connects all of the key destinations in the area, including the Oregon Coast Aquarium, Hatfield Marine Science Center, South Beach State Park, Rogue’s pubs, OMSI’s Camp Gray, and Aquarium Village.

There are opportunities and challenges associated with redevelopment of the site, and developer(s) are encouraged to consider them when preparing proposals. Those identified by the Agency include:



Opportunities	Challenges
<ul style="list-style-type: none"> ○ Highly visible with lots of through traffic on a corner intersection 	<ul style="list-style-type: none"> ○ Far from downtown and other commercial activity
<ul style="list-style-type: none"> ○ Close to key destinations 	<ul style="list-style-type: none"> ○ Context is arterial/commercial
<ul style="list-style-type: none"> ○ Can be part of the South Beach brand 	<ul style="list-style-type: none"> ○ No existing building as centerpiece for adaptive reuse
<ul style="list-style-type: none"> ○ Can be a key node for multimodal path 	<ul style="list-style-type: none"> ○ Development must weather coastal conditions

DEVELOPMENT CONSIDERATIONS

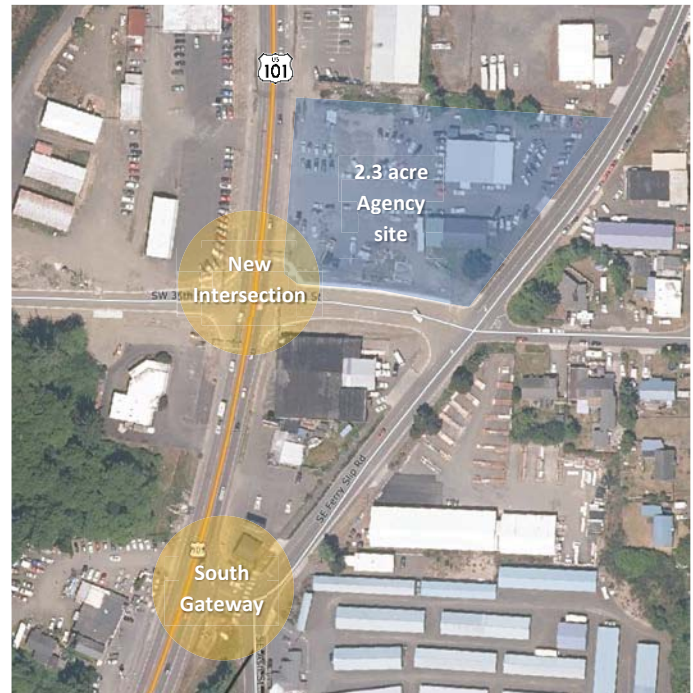
There are a number of factors that may have an impact on the redevelopment of this site. This section provides an overview of these considerations, which should be taken into account as interested parties explore their vision and ideas for the property.

Site Availability: Agency owns the property and it is not subject to any active leases. There are currently three vacant buildings on the property. Building one is a 9,060 square foot, two story metal frame structure previously occupied by the South Beach Church. Buildings two and three are metal framed storage buildings that are collectively 3,880 square feet in size.

Site Preparation/Services: The above referenced buildings, attendant foundations, and other paved areas will be removed, and the site will be leveled and covered with compacted gravel. Agency has provided the City of Newport with funds to prepare the site for redevelopment and the City is currently soliciting bids from qualified contractors. Remediation work should be complete, and the site ready for redevelopment, no later than September 1, 2024. Water, wastewater, storm drainage, power, and fiber are all available to the site. The property possesses one driveway approach onto US 101 and two on SE Ferry Slip Road. These should be the assumed points of access for redevelopment of the property.

Environmental: The property is free of environmental constraints. In the 1980's a portion of the property was developed with a convenience store and card lock fueling station. That building, later converted to a restaurant, has been demolished and the tanks removed consistent with Oregon Department of Environmental Quality requirements. A 1,200 gallon underground concrete holding tank is situated immediately north of the building occupied by South Beach Church. That building had previously been used as an automotive repair shop. The holding tank has been cleaned and sealed, and it will be removed by Agency as part of the site preparation work. Anderson Geological performed Phase I and Phase II Site Assessments in 2014 prior to Agency acquiring the property. Those documents and associated records can be made available upon request.

Development Charges: The City of Newport provides a dollar-for-dollar System Development Charge (SDC) credit for improvements existing on a property within the last 10 years. Given the extent of previous development on this property, which in addition to the above included a 4,675 square foot restaurant and 240 square



foot drive through coffee establishment removed in 2020, it is unlikely that any SDCs will be payable. A School Construction Excise Tax (presently \$0.78 a square foot), Affordable Housing Excise Tax (1% of construction value), and building permit fees will apply to new development and should be factored into proposals.

Zoning: The property is zoned C-1/“commercial retail-service,” a designation that allows the desired uses without discretionary review. A 15-foot setback is required from US 101, and that area will be required to be landscaped. The property is subject to a 50-ft maximum building height limitation and lot coverage is capped at 85 percent of the property. Proposals will be required to comply with all applicable clear and objective zoning standards.

Gateway: Agency is committing at least \$1.0 million in additional funding to enhance placemaking in South Beach to help promote a development concept for this 2.3 acre site, and transform the southern entrance to Newport. That effort will be in concert with, and parallel to, the redevelopment of this site and will include public art, wayfinding, and landscaping improvements (example below)



Investment opportunity: Left - Existing multi-use path along Ferry Slip Rd.

Right – Example of trail improvements: Indianapolis Cultural Trail is a 3-mile trail connecting Downtown Indianapolis with integrated art and landscaping. *Photos compiled by SERA Architects.*

Public/Private partnership: Depending upon the value proposition offered by the selected developer(s), Agency could offer up to the full cost of the land as a write down. Agency prefers; however, that any such write down not reduce the value of the property below \$750,000. The selected developer(s) will be expected to enter into a Disposition and Development Agreement outlining the specific terms for redeveloping the property, and obligating its use for the intended purpose (example enclosed). Development concepts for the site should include a public restroom and stopping point as a user amenity given the site’s proximity to the City’s looped multi-use path network. The City would be responsible for ongoing maintenance of the facility, per the terms of a maintenance agreement.

Public outreach: A significant amount of outreach has been undertaken by the Agency, the results of which are outlined in the South Beach/US 101 Refinement Plan a copy of which is included as an exhibit. Developer(s) are encouraged to review that document and anticipate public vetting of their vision for the property before a proposal is selected by the Agency.

EXAMPLE CONCEPTS

Agency worked closely with South Beach stakeholders to identify three potentially market viable redevelopment concepts to illustrate the types of end uses the community hopes to see at this location. The concepts were informed by outreach to individuals that live, work or visit the area and were vetted with business professionals familiar with the Newport market.

Alternative A: "Food Destination" Specialty Grocery Plus Micro-Restaurants.

The Agency-owned site will host a small/medium grocery with prepared food, a deli, and perhaps small counter-service dining. Adjacent to the grocery will be a cluster of food carts with possible structured shelter and partial indoor space, and a micro-restaurant pod with an indoor/outdoor blend.



Credit: SERA Architects

Alternative B: Mixed Retail.

The Agency-owned site will host a cluster of smaller retail/service/office uses, such as food carts, offices, coffee shop, retail, small medical, and similar uses. Ideal retailers should be oriented to serving the local community, in addition to visitors, and filling gaps in the South Beach neighborhood.



Credit: SERA Architects

Alternative C: "Go Big" Large Anchor and Retail.

The 2.3-acre Agency-owned site north of 35th Street will host a major tenant like a Bi-Mart style general retailer/grocery on roughly 75% of site. The rest of the site will fill out with detached additional retail and/or open space with trail amenities.

The southern parcels, which currently contain Airrow Heating, Columbia Distributing, and Hoover's Pub and Grill, will contain a small retail cluster and single large stand-alone Restaurant (new or refresh). These properties are privately owned, and concepts will be influenced by ongoing conversations with the current business and property owners. Agency has reserved funding to facilitate redevelopment of these sites including removal of the two legacy billboards.



Credit: SERA Architects

SUBMISSION AND EVALUATION

Agency seeks to select a developer(s) with the most creative and compelling vision for redevelopment of the property that is both market viable and in line with the stated community objectives. Further, the developer(s) must demonstrate that they have the capacity to implement the concept they envision for the site. With that in mind, responses to this RFP will be evaluated using the following criteria:

1. Vision for the site accomplishes community objectives.
2. Development proposal is financially feasible.
3. Developer(s) success in previous public-private partnerships.
4. Quality of representative projects.
5. Qualifications of the project team members.

Written responses should be succinct. There is no formal page limit on the length of a proposal; however, Agency suggest that the submittal not exceed 20 pages, excluding appendices. Resumes, cut sheets, and other marketing materials may be included in an appendix. Content should be organized as outlined in the table below.

Proposal	Submittal Requirements	Suggested Page Limit	Total Points
Development Team	Identify the developer(s) and describe their role(s). If possible, include potential joint venture partners or others who would play a significant role in implementing the development.	2 pages	5
Vision	Provide a concise description of your vision for redevelopment of the site and how the concept aligns with community objectives. This should include a written business plan, an illustrative site plan, and elevation drawing or photographs of planned site improvements. Identify probable development phasing (if applicable).	12 pages	50
Financial Capacity	Include a statement regarding the capability of developer(s) to secure financing necessary to implement the development project, including: <ul style="list-style-type: none"> o Description of ownership and operating model o Conceptual sources and uses of financing 	2 pages	20
Development Team Experience	Describe development team qualifications and experience in development of up to three (3) high quality, successful development projects. For each, please provide: <ul style="list-style-type: none"> o Project name and location o Description of project o Total development cost o Total building area by use o Developer(s) role in project o Financing structure o Development partners o Demonstrated use of local contractors and/or minority and women owned businesses o Project timeline (site control through occupancy) o Images of project 	3 pages	20

References	Contact information for at least three (3) individuals that developer(s) have partnered or contracted with to construct past projects.	1 page	5
Appendices	May include supporting materials to supplement above responses, such as resumes of key personnel, non-binding letters of support from financial partners, and testimonials from partners or stakeholders.	No limit	0

Interested developer(s) may submit proposals electronically by email to Community Development Director Derrick Tokos, AICP at d.tokos@newportoregon.gov. Proposal may also be submitted in hard copy form to the attention of the Community Development Director at Newport City Hall (169 SW Coast Hwy, Newport, Oregon 97365).

Evaluation Schedule, Process, and Award

April 11, 2024: Request for proposals released.

June 11, 2024: Deadline for questions.

July 3, 2024: Deadline for Agency to issue addenda (this will include a summarized list of questions and answers).

August 15, 2024: Responses due by 5pm PST.

September/October: Selected developers(s) will be invited to present their proposal to the Agency. This may be in person or on a digital platform like ZOOM.

October/November: Selection announced.

The site is publicly accessible and available for self-guided tours at any time.

Public Records Disclosure

Information provided to the Agency will become property of the Agency and will be subject to public inspection after completion of the evaluation in accordance with Oregon Public Records Law, ORS 192.311 et seq. If an entity responding to this RFP believes that a specific portion of its response constitutes a “trade secret” under Oregon Public Records Law (ORS 192.345(2)) and is; therefore, exempt from public disclosure, the entity must clearly identify that specific information as a “trade secret.” Identification of information as a “trade secret” does not necessarily mean that the information will be exempt from disclosure. The agency will make that determination based upon the nature of the information and the requirements of Oregon Public Record Law.

Designated Contact

For questions regarding this RFP please contact Derrick I. Tokos, AICP, Community Development Director, City of Newport, at d.tokos@newportoregon.gov or 541-574-0626.

EXHIBITS

Exhibit "A"
US 101 & 35th Street
Redevelopment Site RFP



SOUTH BEACH / US 101 REFINEMENT PLAN

Newport, OR

November 2021



Acknowledgements

City Staff:

Andrew Grant, Wastewater Treatment Plant Supervisor
Chris Janigo, Acting City Engineer
Sherri Marineau, Executive Assistant
Spencer Nebel, City Manager
Clare Paul, Assistant City Engineer
Derrick Tokos, Community Development Director

Urban Renewal Agency:

Beatriz Botello
Aaron Collett
Dietmar Goebel
CM Hall, Council President
Cynthia Jacobi
Ryan Parker
Dean Sawyer, Mayor

City Committees:

Airport Committee
Planning Commission
Public Arts Committee

Interviewees:

Laura Anderson, Local Ocean
Ann Armstrong, Yaquina Bay Economic Foundation
Jeff Bertuleit, Bertuleit Donald J Trustee
Charlotte Boxer, Commercial Developer
John Bungay, Bungay Properties, LLC
Bob Cowen, Hatfield Marine Science Center
Garrett Bush, Airrow Heating
Brett Fox, White-Fox LLC
Peggy Hawker, Public Arts Committee
Travis Henry, Henry Point Development, LLC
Phillis & Marvin Hoover, Commercial Property Owners
Carrie Lewis, Oregon Coast Aquarium
Jonathan Ledesma, Project PDX
Lyle Mattson, JC Market Thriftway
Paula Miranda, Port of Newport
Bonnie Serkin, Landwaves, Inc
Lance Vanderbeck, Newport Airport Committee
Jack Waibel, Rogue Brewery
Alan Wells, Commercial Real Estate Broker



ECONorthwest

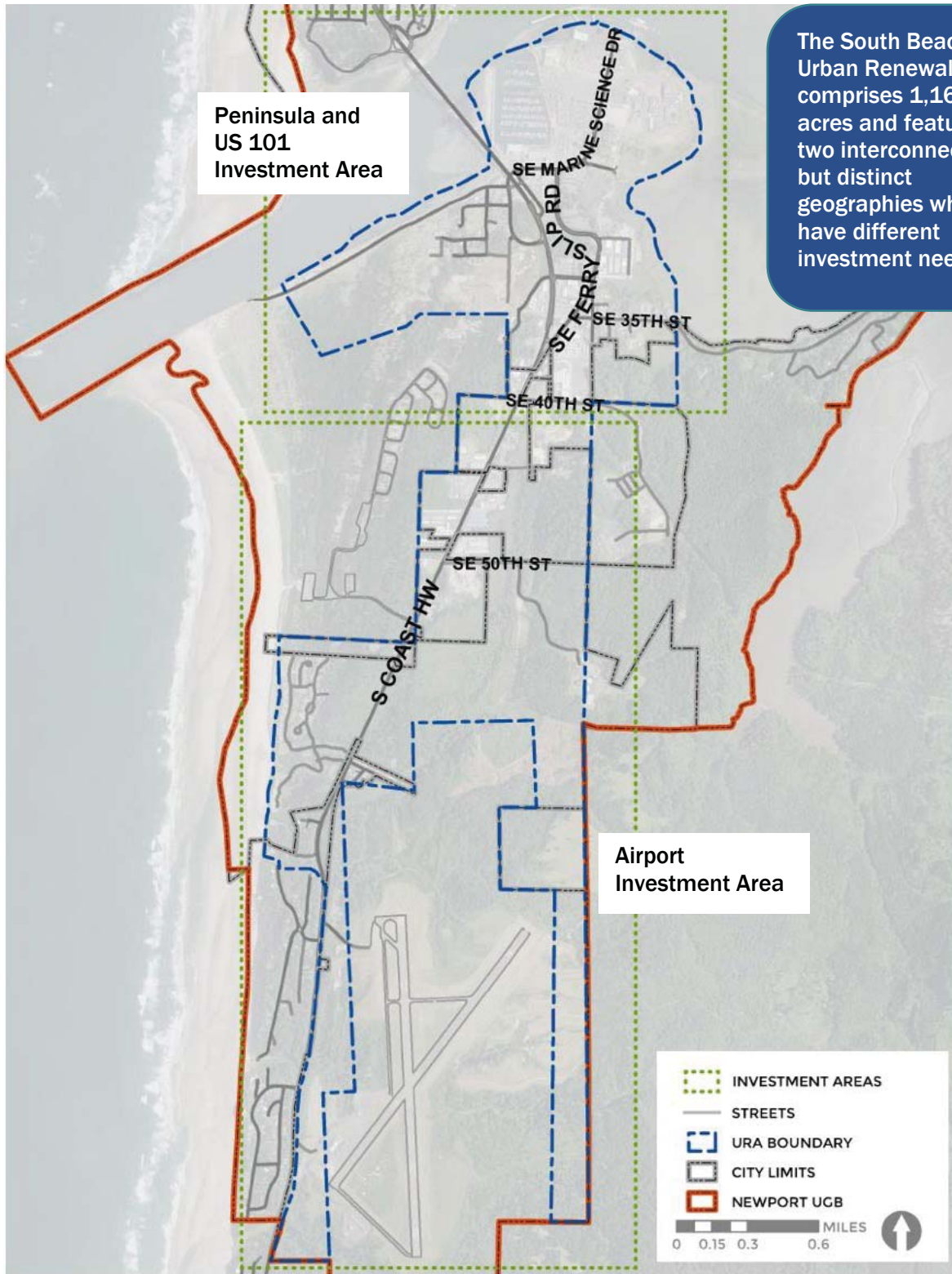
ECONOMICS • FINANCE • PLANNING



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Exhibit 1. Urban Renewal Investment Areas



The South Beach Urban Renewal Area comprises 1,169 acres and features two interconnected but distinct geographies which have different investment needs.

1. Plan Purpose and Background

Nestled on the south side of the Yaquina Bay Bridge, Newport’s South Beach provides a mix of regional institutions, recreational facilities, neighborhoods, and retail businesses. The area has changed substantially since 1983, when the City of Newport established an urban renewal district in the area to address the lack of transportation connections, urban infrastructure, and public amenities.

Since then, the Urban Renewal Agency (“the Agency”) has helped to complete the area’s transportation network, fund the creation of a wastewater treatment plant, spur the development of the popular Oregon Coast Aquarium, and as of 2021, is in the process of making improvements to US 101 that will reconfigure key intersections to ease congestion. In addition to the Aquarium, the area features a mix of institutions, including the Hatfield Marine Science Center, OMSI’s Camp Gray, Oregon Coast Community College, Newport Municipal Airport, and the Port of Newport’s South Beach Marina and RV Park.

The South Beach Urban Renewal Plan is nearing its expiration at the end of 2025 and the Agency acknowledges that the area still faces key transportation, redevelopment, and placemaking barriers. This Urban Renewal Refinement Plan is an Action Plan that identifies a set of impactful projects that the Agency could invest in with its remaining \$5.15 million to \$8.97 million of funding.¹ Each of these projects was vetted for public support and ability to achieve the objectives of the Urban Renewal District. The Agency’s goal is to distribute funds to provide the greatest benefit to the tax base including area residents, visitors, and employees while also helping to remove development barriers on the remaining underutilized parcels in the area.



The new intersection of US 101 and SE 35th Street that was installed as part of the 2021 US 101 improvements in South Beach creates an opportunity for redevelopment for adjacent parcels, including the Agency-owned site on the NE corner.
Credit: City of Newport

¹ The Agency would have up to \$5.15 million for future projects costs if it proceeded with a “pay as you go” scenario acquiring no new debt. The Agency would have up to \$8.97 million if it takes out an additional loan in 2025.

South Beach Urban Renewal Plan Objectives

Project concepts for the final phase of Urban Renewal investments must be consistent with the following South Beach Urban Renewal Plan (1983) objectives:²

- Preserve forest, water, wildlife, and other natural resources
- Identify sites for public use such as the OSU Marine Science Center
- Complete a Port-facilitated marine recreation area
- Encourage marine oriented activities on the northern Shorelands
- Assure the development of complementary uses adjacent to the Airport
- Plan new sewer, water, and transportation capacity
- Allocate a major part of South Beach to heavy commercial and light industrial uses

South Beach Blighting Conditions (1983)

The South Beach Urban Renewal Plan was created to reduce or eliminate blighted conditions in South Beach, including:

Sub-standard street improvements, rights of way, and traffic signalization and management

Incomplete pedestrian/bicycle circulation systems and Tsunami evacuation routes

Inadequate water storage capacity and distribution lines

Undersized or absent sanitary sewer collection service lines

Incomplete winter storm water management systems

Inadequate neighborhood recreation facilities and open space

Source: South Beach Urban Renewal Plan Amendment 5

South Beach in 2021: While the Agency has made progress in solidifying the area as a functional district within the city, several constraints remain:

- While US 101 runs through the area as the key transportation spine, South Beach’s most charming attractions are hidden from view.
- South Beach’s many bike paths provide an alternative to car transport, but the network feels patchy in places.
- South Beach lacks a strong sense of place and could use landscaping and public art installments more effectively.
- Invasive species are a problem in South Beach, and current management is insufficient.
- Residents, visitors, and employees in the area point to a lack of retail services in the area, requiring them to cross the Yaquina Bay Bridge for any goods or services they might need.
- Traffic congestion remains a concern, especially at 40th Street, which is poised to see growth as the Wilder residential area builds out.
- At the district’s southern end, lack of sewer infrastructure limits development opportunities on industrial and commercial properties near the Airport.

² The Benkendorf Associates Corp, “Substantial Amendment Five to the South Beach Urban Renewal Plan 5”, City of Newport, Oregon Urban Renewal Agency (September 2008).

Plan Investment Priorities

Since the urban renewal area has existed for close to 40 years, the refinement plan acknowledges the progress the Urban Renewal Agency has made in achieving its objectives as well as the changed conditions and user base in the area. The Agency has established the following investment priorities for the 2021 refinement plan to create a framework for how the Agency will operate in the remaining life of the urban renewal area. They are based on conversations with stakeholders, the Staff Technical Advisory Committee (composed of key public works, planning, and management staff), and the Agency. They also reflect broader City priorities as part of the Newport Vision 2040.

1. Promote a sense of place for residents and visitors that reflects the South Beach identity.
2. Improve connectivity for bicyclists and pedestrians to South Beach destinations.
3. Attract new development that can meet the service and retail needs of South Beach residents.
4. Invest in overcoming market and development barriers on underutilized or vacant sites.
5. Reduce sewer, water, and transportation infrastructure barriers to enable job creation on industrial lands near the Airport.
6. Invest in improvements that promote long-term community resiliency to address tsunami, flooding, and earthquake hazards.

The City and Urban Renewal Agency are interested in helping South Beach to contribute to the overall vision for Newport:

“In 2040, the Greater Newport Area is an enterprising, livable community that feels like home to residents and visitors alike. We have carefully planned for growth with well-maintained infrastructure, affordable housing for all income levels, robust public transportation, diverse shopping opportunities, and distinct, walkable districts and neighborhoods.”

Source: Newport Vision 2040

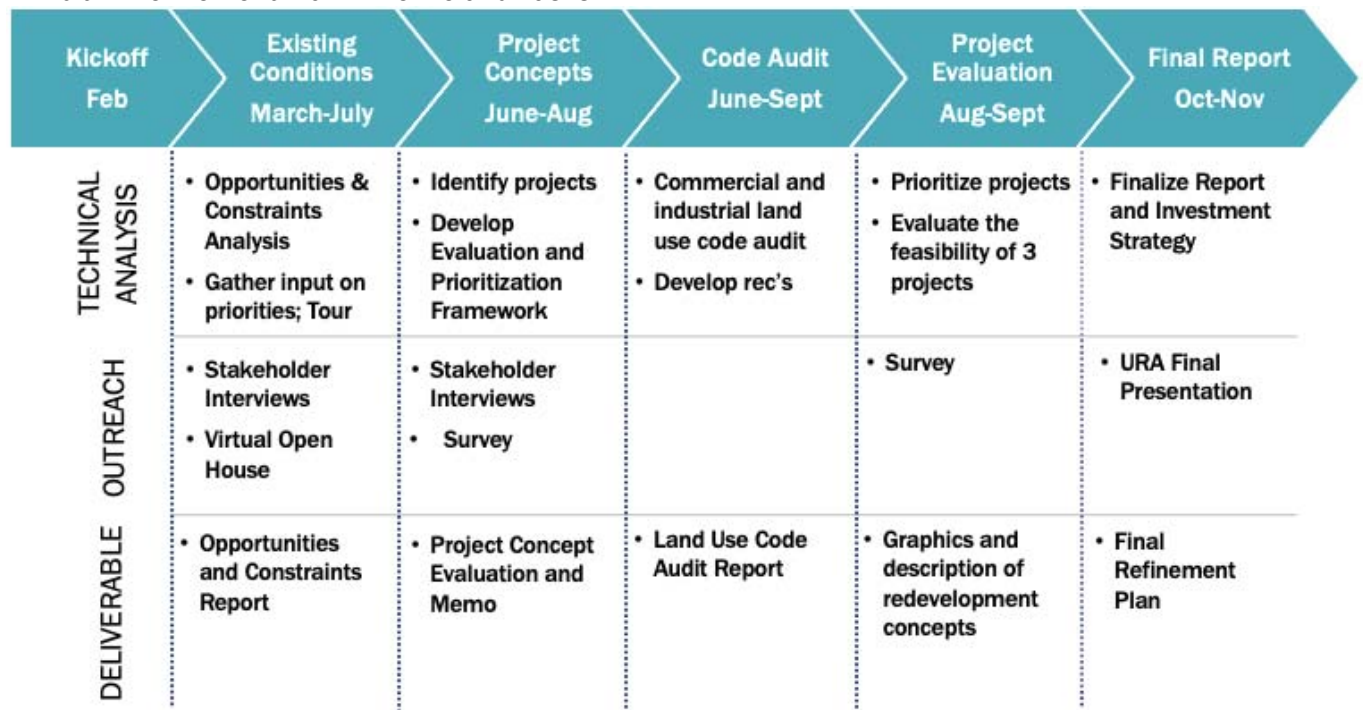


Aquarium Village offers an eclectic blend of makerspaces and businesses serving visitors, such as gift shops and restaurants. *Credit: ECONorthwest*

Refinement Plan Process and Public Involvement

The Urban Renewal Refinement Plan (“the Plan”) draws from many sources to identify priorities and projects, including technical analysis of the development and infrastructural needs in the community and significant community and stakeholder outreach. Exhibit 2 shows the key elements of the planning process and overall project timeline.

Exhibit 2. Refinement Plan Timeline and Tasks



Engaged with the community. While COVID-19 restrictions prevented in-person engagement, the planning team, which consisted of four consultants/subconsultants as well as City partners, conducted community outreach throughout the entire planning process with:

- **18 interviews** with individuals and committees completed by the City and the consultant team. Participants included local business and property owners, real estate brokers and developers, committees, community members, and economic development professionals.
- **4 participants** in a Marine Resource focus group conducted over the summer.
- **23 community members** participated in a Community Workshop held online on August 26, 2021. Attendees were encouraged to prioritize project concepts and specific investments.
- **466 respondents** to two surveys that were released in July and September 2021. The first survey was developed to understand key issues and priorities for community members. The second survey was designed to generate feedback on specific project concepts.

Analyzed the Area’s Opportunities and Constraints. The Opportunities and Constraints Report in Appendix A provides background information on key constraints for revitalization, stakeholder priorities, and points to potential opportunities for Agency investment in the area. JET Planning conducted a **code audit** to further understand potential barriers associated with land use regulation.

Evaluated Project Concepts. The existing conditions research and community outreach informed a list of potential improvements and infrastructure projects for implementation. The team, with Agency support, developed an Investment Framework (Appendix B) for evaluating and prioritizing those projects to ensure that all projects met the goals and priorities of the Urban Renewal Plan.

How do people perceive South Beach? Survey respondents indicated that South Beach suffers from traffic congestion and lacks a sense of place.

“No identity, just a place from which businesses operate.”

“Traffic nightmare”

However, many respondents also indicated that the area has natural amenities and untapped potential

“Potential to be the fun...district of Newport.”

“Natural beauty”



This Plan proposes to enhance South Beach’s sense of place by investing in landscaping, improving wayfinding, and adding amenities including public art (See Project Sheet F for details). Eighty-five percent of survey respondents indicated that new wayfinding and public art should include water-based themes related to existing uses in the area. *Photos compiled by SERA Architects.*

2. Opportunities and Constraints Summary

As a foundation for action, this chapter describes the opportunities and constraints present in South Beach that serve as a basis for project needs and prioritization.

South Beach is home to some of Newport's most visited institutional and recreational organizations, many of which have potential to expand in the near future. Residential development is also underway with Wilder planning to add twenty-six houses this year. Each of these plans for growth provide opportunities for South Beach, but also raise concerns about current capacity.



The Oregon Coast Community College serves around 2,000 students and employs 45 faculty. *Credit: ECONorthwest*

Opportunities exist throughout the study area but especially on the Peninsula and along US 101 to improve a sense of place and visitor experience in South Beach. Stakeholders identified opportunities to improve South Beach through an overhaul of the area's visual identity, signage consolidation, and other wayfinding and placemaking improvements. The City could improve the visibility of destinations from US 101 by consolidating wayfinding signage, catalyzing redevelopment of City-owned parcels, and/or the utilizing the US 101 Ferry Slip Road closure to create a southern gateway. Buying out billboards could also help to remove visual clutter.



The right-of-way closure at the US 101 and Ferry Slip Rd. provides a location for a southern gateway to Newport. *Credit: ECONorthwest*

Lack of infrastructure, developer uncertainty, and negative public perception is limiting development of Airport industrial sites. Lack of sewer facilities, low water flows, and limited road access limit the type of industries that can function on the Airport sites. Additionally, developers are uncertain about the City's plans for the site and whether they will be able to build what they want if they do invest in the property. Investing in infrastructure and clarifying the City's intentions would go a long way in promoting development.

Funding projects that enable new development and job creation at the Airport was not a priority for survey respondents.

Only 7% identified it as very important while 40% indicated it was not important at all.

Limited and disconnected multimodal infrastructure and traffic congestion remain key challenges in South Beach. While there are many multimodal pathways, sidewalks, and bike lanes in the area, South Beach lacks a cohesive, signed, multimodal network. Additionally, traffic congestion, especially during peak periods, make it difficult to cross the Yaquina Bay Bridge and access key points along the Peninsula. Recent improvements, including the relocation of the traffic signal to US 101 and 35th Street, provide a strong start to addressing these issues.



This Plan proposes a new traffic signal at the intersection of US 101 and 40th St. to improve safety and ease of access to the Wilder Development, Oregon Coast Community College, and the planned OSU student housing development (see Project Sheet H). *Credit: ECONorthwest*

Planning and development efforts in South Beach should consider the natural and geologic hazards for which the area is at risk. Various systems (electric, sanitary sewer, etc.) may be impacted by a tsunami or other seismic events. Upgrades to these systems or new projects should take resiliency into consideration. The Yaquina Bay Bridge is of particular concern – in the event of bridge damage due to a natural disaster, the residents of South Beach would be cut off from all the essential services and resources north of the bridge. Development of essential services (access to food, fuel, and/or healthcare) in South Beach would provide some fundamental resiliency to the area if the bridge were impassible.

While there were other challenges and opportunities identified in South Beach, this plan focuses on those most relevant for urban renewal investment

The full Opportunities and Constraints Report is in Appendix A and includes opportunities and constraints maps with corresponding tables.

Land Use Policies, Zoning and Regulations Audit

Land use policies and regulations impact development possibilities in South Beach. The land use code audit determined how existing land use plans, maps, and regulations impact development in South Beach. It also identified potential revisions that could be enacted to better align with area goals and investments. The detailed audit can be found in Appendix E. Exhibit 3 summarizes key findings and recommendations.

Exhibit 3. Land Use Audit Findings and Recommendations

Key Findings	Recommendations
<p>Mapping - The mix of commercial and light industrial zones along US 101 generally aligns with Urban Renewal District goals. There is potential for select re-designation from industrial to commercial for key areas.</p>	<ul style="list-style-type: none"> ▪ Expand commercial district along US 101 to encompass the SE 35th St gateway site and surrounding properties. ▪ Rezone the NE corner of SE 40th St and US 101 for commercial taking advantage of potential new signal. ▪ Rezone parcel on south side of SE 40th St from heavy industrial to light industrial to reduce potential use conflicts. Identify sites for heavy industrial farther south.
<p>Annexation - Nearly 25% of the district is outside of the City limits and cannot yet be developed to urban levels of intensity or served by urban infrastructure. More than half of these areas are designated for industrial uses.</p>	<ul style="list-style-type: none"> ▪ Actively pursue annexation of industrial properties using island annexation provisions coupled with financial incentives to offset infrastructure costs, engaging with individual property owners to understand priorities and needs. ▪ Engage with Lincoln County to complete the Urban Growth Management Agreement to ensure an orderly transition from County to City zoning and infrastructure.
<p>Zoning - The City's Zoning Code clearly delineates zones with use standards and site development standards. The prevalent Light industrial zone benefits from allowing a flexible mix for industrial and commercial uses however this can result in uncertainty about the compatibility of future development.</p>	<ul style="list-style-type: none"> ▪ Limit uses inconsistent with district development goals by prohibiting uses associated with low employment for all or highway-abutting light industrial sites. ▪ Introduce a 15-foot setback with required landscaping for both industrial and commercial properties along US 101. ▪ Develop landscape screening, buffering and/or fencing standards to improve compatibility of light industrial uses. ▪ Maintain existing land use and building permit procedures, which minimize discretionary reviews.
<p>Other Considerations - The City should continue to monitor issues such as parking demand and trip allocation within South Beach and adjust as appropriate.</p>	<ul style="list-style-type: none"> ▪ Review the employment and tax generation potential of uses permitted within the district to determine if future modification of permitted uses is justified within the light industrial zone ▪ Consider using development agreements for greater certainty on proposed development for select sites ▪ Monitor parking demand and implication of current parking ratios for site development feasibility. Explore options for shared parking on individual sites and district-wide parking reductions. ▪ Review the impact of commercial rezoning on the SBTOZ trip budgets and reallocate trips within the district as necessary.

South Beach Opportunity Sites

South Beach has several potential opportunity sites for new development. There is a cluster of vacant/underutilized sites on US 101 near the Agency-owned site at 35th St. Two sites near the NOAA facility that currently house dredge spoils or vacant warehouses could be redeveloped for complementary uses. There are also limited industrial development opportunities on vacant sites near the Airport.

All the sites in the tsunami evacuation zone could be developed with commercial uses, while sites in the upland areas out of the evacuation zone (including near Wilder) could be developed with housing. Future demand drivers for the area include an increase in student housing, expansion plans for the Wilder residential area, and other sites that might draw new employers near the Airport. These new residents and employees are going to drive a changing retail demand landscape.

Community engagement and market analysis revealed key service gaps in South Beach including:

- Grocery stores
- Gas stations
- General retail
- Casual restaurants



This Plan proposes to promote development of the Agency-owned 35th Street site with uses that meet community needs. The Barley Pod in Portland is an example of a food cart pod anchored by a brewing company, a concept that could work well on the site. *Credit: ECONorthwest*

Agency-Owned 35th Street Site

The US 101 and 35th Street Agency site offers an opportunity for the Agency to help promote a development concept that meets community goals. Coupling these improvements with gateways and public art would help to transform the southern entrance to Newport making this site a “go-to” South Beach destination.

Exhibit 4. Opportunities and Challenges for the Agency-Owned 35th Street Site

Opportunities	Challenges
<ul style="list-style-type: none"> • Highly visible with lots of through traffic on a corner intersection • Close to key destinations • Can be a part of the South Beach brand • Can be a key node for multimodal path 	<ul style="list-style-type: none"> • Far from Downtown and other commercial activity • Context is arterial/commercial • No existing building as centerpiece for adaptive reuse

Determining potential uses and vetting potential concepts was a key part of refining this project. Four uses rose to the top as desirable and feasible for this site³:

- General Merchandiser
- Specialty Grocery
- Microrestaurants/foodcarts
- Retail

Taking these four uses, the planning team compiled three potential concepts for development on the site detailed below. Ultimately the City will use these concepts in a Request for Qualifications (RFQ) to be released in Spring 2022.

Project Sheet A includes additional details that will inform the 2022 RFQ including:

Development objectives for the site

Public private partnership potential

Zoning considerations

Community preferences on development concepts.

Community Preferences

Which uses were most popular for the 35th Street site? Survey respondents who were South Beach residents and employees favored a small or specialty grocer whereas those who lived in Newport or elsewhere identified food carts or microrestaurants as their top choice.

Which concept was most popular for the 35th Street site? Survey respondents indicated that they would like the site to become a “Food Destination” with specialty grocery and microrestaurants

“The realignment of the traffic signals [at US 101 and 35th] and the location just south of the bridge is an opportunity to give South Beach a ‘go-to’ destination for a new type of shopping experience” - South Beach Stakeholder

³ While a gas station was identified as a need both during community engagement and technical analysis, it was determined that it would not contribute to the “gateway” envisioned on this site. A gas station may be better situated near 40th St.

Illustrative Site Plans

Alternative 1: “Go Big” Large Anchor and Retail. The 2.3-acre Agency-owned site north of 35th Street will host a major tenant like a Bi-Mart style general retailer/grocery on roughly 75% of site. The rest of the site will fill out with detached additional retail and/or open space with trail amenities.

The southern parcels, which currently contain Airrow Heating, Columbia Distributing, and Hoover’s Pub and Grill, will contain a small retail cluster and single large stand-alone restaurant (new or refresh). The southern parcels are privately owned, and concepts will be influenced by ongoing conversations with the current business and property owners. The site should leverage adjacency to the Ferry Slip gateway site.

Economic Considerations: Recruiting a large grocer may prove challenging on the site if the potential market is considered insufficient to sustain operations. Additionally, receiving supplies on the Coast could be costly for potential tenants especially if they do not have other stores nearby. However, a large anchor can draw other retail tenants to the area and the Agency may want to consider partnership opportunities on this site to make it feasible long term.

Exhibit 5. Alternative 1: “Go Big” Large Anchor and Retail



Credit: SERA Architects

Alternative 2: “Food Destination” Specialty Grocery Plus Microrestaurants. The Agency-owned site will host a small/medium grocery with prepared food, a deli, and perhaps small counter-service dining. Adjacent to the grocery will be a cluster of food carts with possible structured shelter and partial indoor space, and a microrestaurant pod with an indoor/outdoor blend.

Economic Considerations: The market area would likely be sufficient to sustain a small grocery although the tenant will need to be familiar with the challenges of delivering to the coast. This site could provide an ideal opportunity for a local grocer to expand.

Food cart pod / microrestaurant considerations

Tenancing/rightsizing will be important with 8-10 unique concepts being the ideal. More would be too difficult to manage and less would not provide enough choices.

The City should gauge interest among local entrepreneurs or existing restaurants for satellite locations.

The City should consider recruiting a master lessee to operate/manage subleases and establish ground rules.

Exhibit 6. Alternative 2: “Food Destination” Specialty Grocery Plus Microrestaurants



Credit: SERA Architects

Alternative 3: Mixed Retail. The Agency-owned site will host a cluster of smaller retail/service/office uses, such as food carts, offices, coffee shop, retail, small medical (i.e., Zoom+Care), and other uses popular in the community survey. This site should aim to add urban appeal by concealing parking behind, providing access from Ferry Slip (which currently has just one curb cut on US 101), and including open space or park use, assuming the small commercial does not consume the entire 2.3 acres.

Economic Considerations: Without an anchor, some retailers may be hesitant to locate to this site. Retailers that do locate here should be local-serving and fill gaps in the South Beach market.

Exhibit 7. Alternative 3: Mixed Retail



Credit: SERA Architects

3. Investment Framework

The opportunities and constraints identified in Chapter 2 make it clear that South Beach is well-positioned for growth but needs targeted investment to reach its potential. This chapter establishes an evaluation framework to help frame the Agency’s decisions about which projects to evaluate further, and ultimately advance for urban renewal funding. It also provides a structure for implementation.

Who: The Agency and Partners

For all the projects evaluated, the Agency assumes it will be leading investment or providing matching investment, given the limited time remaining in the life of the district. Bringing new private investment into the community is a key goal of this Action Plan, provided such efforts can be coordinated before the plan closes to new projects. Successful implementation will require time and energy from many partners within the City.

Where: Two Investment Areas

Agency investments will span two investment areas within the Urban Renewal Area: The Peninsula/US 101 Investment Area and the Airport Investment Area

- The Peninsula/US 101 Investment Area is home to the area’s major institutions, attracts visitors from around the United States and beyond, and is home to the area’s retail establishments and hotels. The projects focused on this area include Projects A, B, E, F, G, and H.
- The Airport Investment area includes the Municipal Airport and publicly and privately owned land that is zoned for industrial development. The projects focused in this area include Projects C and D.

When: End of 2025

If the Agency is to execute on its priority investments by 2025, it will need to be strategic about the choices it makes and poised to act quickly. All projects must be awarded by December 31, 2025.

Established in 1983, the South Beach Urban Renewal Plan has an original maximum indebtedness of \$38,750,000. Key recent milestones include:

2009: The URA was extended at a reduced size for the purpose of upgrading the infrastructure and acquiring land to support economic development. With public input, a new project list was developed with the 2009 extension, to be funded with revenue bonds over three six-year phases.

2018: The URA completed a substantial amendment of this plan to move the deadline for awarding projects from December 31, 2020, to December 31, 2025. This amendment extends the date after which no bonded indebtedness can be issued with respect to the Plan.

How Much: Up to \$9 million

As a part of the planning process, the Agency weighed the priority of each project against its potential cost and discussed the merits of the different funding scenarios. The Agency ultimately decided that all the projects are important and is willing to take out an additional loan in 2025 in order to accomplish all projects. The Agency should aim to leverage funding from regional, state, and federal partners as grant dollars might be available which will impact how much funding is needed.

Why/How: Investment Criteria

Evaluation criteria included:

1. Can the Agency award the project by 2025?
2. Will the project necessitate a substantial amendment?
3. Does the project align with the objectives from the 1983 South Beach Urban Renewal Plan?
4. Does the project advance the 2021 investment priorities for the urban renewal area?
5. How much community support did the project receive?

Each project was evaluated against the first three specific criteria to ensure it met threshold requirements. Projects that did not meet these requirements were excluded from further consideration. Projects were further prioritized by their alignment with 2021 priorities, community feedback and cost to determine the importance of the different projects.



Investment opportunity: Left - Existing multi-use path along Ferry Slip Rd. Right - Example of trail improvements: Indianapolis Cultural Trail is a 3-mile trail connecting Downtown Indianapolis with integrated art and landscaping. *Photos compiled by SERA Architects.*

Funding Scenarios

Pay as you go - \$5.15 million

The Agency collects TIF dollars through FYE 2025 and pays directly for projects without acquiring new debt. This scenario could complete most projects with limited incentives. Tax increment would return to the districts in FYE 2026.

Additional Loan - \$8.97 million

The Agency collects TIF through FYE 2027 by taking out a loan prior to 2025 to leverage last two years of TIF. This scenario could fully fund all projects. Tax increment would return to the districts in FYE 2028.

2021 Forecasts by Tiberius Solutions

4. Action Plan Projects

Attracting new development to South Beach will take a coordinated effort by the City, businesses, and private investors. Because limited public funds are available for capital projects and programs, it is necessary to prioritize these investments. With targeted investments and partnerships, South Beach could achieve its vision for a more active commercial corridor and increased opportunities for jobs. The strategic use of urban renewal funds can help to improve visitor experience and increase private sector confidence in investing in the District. It will also provide a bridge for pioneering development projects to overcome the significant financial gap for new development in South Beach.

This chapter outlines eight projects that can help South Beach achieve this vision. Some projects benefit the tax base directly by removing market or infrastructural barriers for businesses, while others focus on investments to placemaking, public art, landscaping and other visualization improvements that help establish a sense of place. These projects also benefit the economy by promoting tourism and local spending. Likewise, multimodal improvements that cater to pedestrians and cyclists enhance the sense of place and encourage people to spend time and money in the local community.

What's included in the project sheets?

A description of the project

Rationale for including the project on the list

Alignment with South Beach's 2040 vision

Implementation Steps

Outreach considerations

Potential partners for the City to engage on the project

Planning cost estimates and

Additional funding considerations

Final Project Selection

All projects included in this plan met the threshold evaluation criteria. The following table shows:

- **Community support:** These scores are based on how the projects ranked in the community surveys and other engagement.
- **Strength of alignment with priorities:** Projects that clearly advanced one or more priorities were moved forward.
- **Cost:** Projects were considered high cost if they were \$1M+, medium cost if they were between \$500K and \$1M, and low cost if less than \$500K.

Two projects were removed from the list during prioritization and do not have project sheets.

Provide transportation access to east Airport properties - these properties are unlikely to develop soon and therefore do not have a pressing need for transportation access

Install a traffic signal at SE 50th and US 101 - demand for this signal is very low at this time

Additional details on project evaluation can be found in Appendix B.

Exhibit 8. Refinement Plan Projects to be Funded with Remaining Tax Increment

Key	Project	Rationale	Meets Priorities	Public Support	Estimated Cost
A	Redevelop 35 th Street site to meet community needs providing strategic investments in neighboring properties to promote redevelopment concepts	Promote development that meets public goals combined with a gateway that improves the arrival experience and business / destinations visibility. Potential for strategic investments in part	Yes	High	\$1.3 million (\$300K for public restroom and path user amenities \$1 million for investments in neighboring properties; land write down of up to \$1.5 million not included; would be variable depending on the dev't concept)
B	Incentivize annexation of unincorporated properties with a focus on US 101 industrial sites, and target predevelopment assistance to vacant or underutilized sites	Assist in annexing unincorporated properties within the plan boundaries and condition issues with vacant or underutilized sites to help meet community needs and improve the area's vibrancy.	Yes	Medium	Up to \$500,000 (assumes all eligible properties are annexed at the same time)
C	Provide sewer infrastructure to industrial sites near Newport Municipal Airport	Expand the types of development possible and reduce developer uncertainty.	Yes	Low	\$600,000 - \$2 million (depending on technology used)
D	Improve fire suppression capability at Airport industrial sites	Expand the types of development that would be able to locate at the Airport	Yes	Low	\$150,000 - \$500,000 (preliminary estimate)
E	Install redundant Yaquina Bay water pipeline	Improve South Beach's resiliency to water line failure	Yes	Medium	\$750,000 (if grant unsuccessful, Agency could pay closer to \$3 million; surplus from other projects could be directed here to fully fund)
F	Enhance South Beach placemaking through improvements to landscaping, public art, and gateways	Bolster the area's sense of identity through targeted improvements.	Yes	Medium	\$1 million (\$150-250K in consulting fees, up to \$850,000 in improvements)
G	Enhance mobility for cyclists and pedestrians through South Beach Loop path improvements	Improve mobility for cyclists and pedestrians while enhancing sense of place and navigability. It would also improve disaster preparedness	Yes	High	\$1.3 - 1.45 million (high priority projects only, excluding ROW acquisition)
H	Install a traffic signal and enhanced pedestrian facilities at SE 40 th Avenue and U.S. 101	Open the door for planned development and ease congestion	Yes	High	\$1.5 million (not including bike/ped improvements, which are included in Project G)
Total Project Costs					Up to \$9 million

Detailed Project Sheets

The following sheets provide details for each of the proposed projects.

Project Description	Lead
<p data-bbox="233 327 1442 558"> A Redevelop SE 35th Street site to meet community needs providing strategic investments in neighboring properties to promote redevelopment concepts. </p> <p data-bbox="203 659 1289 806"> The Agency-owned site at 35th Street could be South Beach’s neighborhood hub and the gateway to South Beach, given that the site sits at the District’s entrance to the key destinations of the Newport Aquarium, Hatfield Center, South Beach State Park, Rogue’s pubs, OMSI’s Camp Gray, and Aquarium Village. Community members have expressed a desire to see this area transformed to better reflect the many attractions and natural beauty of South Beach. </p> <p data-bbox="203 852 483 877"> Development objectives: </p> <ul data-bbox="214 890 1284 1100" style="list-style-type: none"> ▪ Serve as a neighborhood hub and gateway to South Beach. ▪ Provide stopping point for users of South Beach Loop path. The site will also serve as a key node along South Beach’s iconic bicycle and pedestrian loop, which connects all of the key destinations. ▪ Provide gathering spaces for residents and visitors, with lots of retail and restaurant choices. ▪ Support food entrepreneurs and surrounding businesses. ▪ Build upon the gateway opportunity at the closed ROW at the former entrance to Ferry Slip. <p data-bbox="203 1138 1276 1226"> Potential uses: The highly visible and central location could attract investments in buildings that house services or retail (e.g., specialty grocery, restaurants, shops) and offer a central gathering space for eating and convening groups to serve South Beach area residents and employees. </p> <p data-bbox="203 1272 695 1297"> Partnership with adjacent property owners: </p> <ul data-bbox="214 1310 1284 1717" style="list-style-type: none"> ▪ <i>Expanded development concept:</i> On the southern parcels, which currently contain Airrow Heating, Columbia Distributing, and Hoover’s Pub and Grill, Alternative A shows a small retail cluster and single large stand-alone restaurant (new or refreshed Hoover’s). The southern parcels are privately-owned, and concepts will be influenced by ongoing conversations with the current business and property owners. ▪ <i>Partnership with adjacent businesses:</i> Prior to RFQ release, the City should reach out to South Beach Market, Barrelhead, Columbia Distributing, Airrow Heating, and other restaurants to get feedback on the concepts, answer questions, discuss compatibility with potential commercial concepts, and gauge interest in partnerships. ▪ <i>Billboard removal:</i> Two legacy billboards on the Hoover’s site constrain redevelopment opportunities on this site and detract from the desired village feel of the 35th Street site. The Agency will consider paying out the remaining contract that Hoover’s has with the billboard company to remove the billboards and allow for more flexible reuse of the site. 	<p data-bbox="1325 659 1500 835"> Urban Renewal Agency / Community Development / City Manager’s Office </p>

Rationale

Because the Agency controls the 35th Street site, it can help promote a development concept that meets public goals. Coupling these improvements with gateways and public art would help transform the southern entrance to Newport. Currently there is no clear indication that a visitor has arrived in the community when driving north on Hwy 101 into South Beach.

Alignment with Vision 2040	A3. Transportation Corridors [Partner] A13. Strategic Investments and Partnerships [Lead] A14. Developable Land [Partner] <i>Depending on businesses recruited:</i> E2. Medical Professionals and Specialists [Support] E12. Access to Health Food [Support]
Implementation Steps	<ul style="list-style-type: none"> ▪ Consider adjusting zoning to accommodate desired development type (from industrial [I-1] to commercial [C-1]). The commercial/retail uses proposed here are all permitted outright in the I-1 district. There is concern, however, that surrounding I-1 sites could be developed with actual light industrial uses, including things like vehicle repair or storage, self-storage, warehousing, and distribution, that could be incompatible with the atmosphere desired for this site. The I-1 zone also requires a 50-foot setback from Hwy 101 that would limit the development area on this site. This could be addressed through rezoning to commercial (C-1) that has no front setback requirement or revising the setback for the I-1 district as recommended in the code audit. ▪ Continue to discuss potential partnership with property owners of Hoover’s and Airrow Heating sites, which could provide a cohesive gateway to South Beach. Acquire additional properties, if feasible, to develop the desired program. ▪ Release RFQ to attract a developer in Spring 2022, using development objectives developed through the refinement plan process. ▪ Analyze cost implications for the city of ongoing maintenance for the gateway.
Public or stakeholder outreach needed	<p>The City conducted outreach with developers, existing restauranteurs, potential tenants, key stakeholders, and the public as part of the refinement plan to develop objectives and vet concepts. The City will reach out to property owners of parcels that may need to be acquired. The City may also coordinate with the Urban Renewal Agency to seek their input on site programming goals.</p>
Partners	Potential developers, South Beach businesses, and organizations
Estimated Cost	Funding Considerations
<p>Up to \$1.3 million</p> <p>(\$300K for public restroom and path user amenities and \$1 million for investments in neighboring properties)</p> <p>(land write down of up to \$1.5 million not included; would be variable depending on the dev’t concept)</p>	<p>Funding for public-private partnerships on the site will come from urban renewal funds, with technical assistance from the City.</p> <ul style="list-style-type: none"> ▪ Land write down: Depending on the value proposition offered by the selected development team, the Agency could offer up to the full value of the land cost as a write down. The city prefers the potential land write down not exceed \$750,000 but the decision would be subject to the development proposals solicited as a part of the RFQ process. The Agency would need to evaluate the cost of public amenities and be receptive to developer feedback about the cost and time required to develop commercial buildings on the coast. ▪ Direct subsidy: The Agency may consider providing direct support to help pay for public amenities like a public restroom and Loop path user amenities.

ILLUSTRATIVE SITE PLANS

Exhibit 9. Alternative 1: "Go Big" Large Anchor and Retail



Credit: SERA Architects

Exhibit 10. Alternative 2: "Food Destination" Specialty Grocery Plus Microrestaurants



Credit: SERA Architects

Exhibit 11. Alternative 3: Mixed Retail



Credit: SERA Architects

Community Feedback

The community provided feedback on the types of uses they would most like to see at the 35th Street site in a survey that was distributed from September 20th to October 17th, 2021. The survey, which received 154 responses, indicated that the most popular uses for the site were:

1. A small or specialty grocery
2. Food carts or microrestaurants
3. An array of neighborhood serving retail services.

The survey also asked respondents to rank three concepts (see Illustrative Site Plans) that incorporated these uses in varying ways. Alternative 2: “Food Destination” was the most popular choice followed by Alternative 3: Mixed Retail.

ZONING CONSIDERATIONS

As a part of the Refinement Plan process JET Planning conducted a code audit to further understand potential barriers associated with land use regulation. Findings relevant to the 35th Street site are detailed below (see Appendix E for more details).

- Recently updated provisions allow food carts individually and in pods of four or more throughout the South Beach area. (NMC 14.09, updated September 2021.) Food cart pods on private property are required to provide permanent utility connections and pay system development charges (SDCs), provide covered seating and trash receptacles, and provide access to a restroom.
- The potential development scenarios will require between 87-114 parking spaces on the 35th Street site which could constitute nearly 40% of the site at an estimated 350 square feet per space on the 2.3-acre site (NMC 14.14.030). However, it is likely that many uses in South Beach will be primarily served by auto access so parking availability will be important.
- Current zoning of Light Industrial permits retail and restaurant uses; however, the site is surrounded by properties that are zoned Light Industrial that the Agency does not control. This could detract from the site’s appeal if developed with incompatible uses.
- Potential development can likely meet the landscaping requirements. The landscaping requirement is 10% of the overall site, concentrated along the frontages, similar to the proposed sketches.
- There are no requirements for screening or buffering between uses on the site (NMC 14.18.) There are no limitations on outdoor storage or location of parking or loading areas, nor specific screening and buffering that would apply beyond a requirement for 5% of the parking area to be landscaped (NMC 14.19.050(D)(1)).
- No other architectural or site design standards apply to commercial and industrial properties within South Beach (NMC 14.30.010).

USE EVALUATION

Exhibit 12 provides an evaluation of the different uses that could take place on the site. The criteria are intended to provide the Agency with a better understanding of the support different uses might need as well as the benefits they can provide the community.

We considered each use according to:

- Its level of community support as determined through stakeholder interviews, focus groups, and two surveys
- Whether it would require local partners for development and/or financing
- How much financial support would be needed from the Agency to make it feasible
- The level of tenant management required
- Its ability to foster entrepreneurship on the site

Exhibit 12. 35th Street Site Use Evaluation Matrix

	General Merchandiser	Specialty Grocery	Microrestaurants / Foodcarts	Retail
Community Support	Medium	High	High	Medium
Local Partner(s) Required for Dev't/Financing	No	No	Yes	Maybe
Potential Agency Contribution	Likely High	Likely High	Medium	Low
Tenant Management Required	Low	Low	High	Medium
Entrepreneurship Potential	Low	Low	High	Medium

PRECEDENT IMAGERY

The images below illustrate the types of developments that could occur on the US 101/35th Street opportunity site.⁴

⁴ Photos compiled by SERA Architects

RESTAURANTS, FOOD CARTS, GROCERY, RETAIL, COMMUNITY SPACE



Restaurant with outdoor plaza (Wilsonville, OR)



New/Renovated Commercial Strip (Portland, OR)



Latino Food Hall in renovated building (Portland, OR)



Pop-up event space and food cart pod (Oakland, CA)



Restaurant/Brewery Manufacturing and dining (Bend, OR)



Brewpub with outdoor dining on busy commercial street (Bozeman, MT)



The Ocean food hall (Portland, OR)



Small restaurant conversion (Portland, OR)



Restaurant with outdoor seating on sharp angle corner site (Portland, OR)



Container pod restaurants and shops (Albuquerque, NM)



Food Cart Pod (both mobile and permanent-installed dining shed with bar and firepits) (Bend, OR)



Food cart pod (St. Johns, Portland, OR)



New-construction corner businesses: stores and offices above



Retail strip (St. Johns, Portland, OR)



Indoor/outdoor farmers market



Electric Island charging hub (Swan Island, Portland, OR)



Full-service grocery (Portland, OR)



Micro-grocery (Portland, OR)

B Incentivize annexation of unincorporated properties with a focus on US 101 industrial sites, and target predevelopment assistance to vacant or underutilized sites

Project Description	Lead
<p>Approximately 25% of land within the South Beach URA is outside of City of Newport limits, which makes it difficult for the City to provide key services to large parts of South Beach. Through a predevelopment fund, the City would provide an incentive to annex into the city for US 101 property owners that are outside of city limits but inside of the URA boundary. The City would prefer to discuss annexation potential with property owners to ensure it meets their goals. However, properties that are surrounded by the city can be annexed without consent using the island annexation provisions under ORS 222.750 and would be best served by annexation assistance (see Exhibit 13 for unincorporated properties).</p> <p>Key to this strategy would be working with those property owners to annex the unincorporated properties into the City all at once, which would reduce overall costs. The City could cover the annexation expenses, which includes survey costs and old bond debt that the Seal Rock Water District accrued when it provided service to these properties (the properties now receive City water service). The City could also provide incentives for these properties to connect to City sewer service by agreeing to (a) pay wastewater SDCs for existing uses that would otherwise be payable upon connection and (b) provide a rebate of up to \$10,000 to reimburse owners for the construction of new residential service laterals and \$15,000 for commercial/industrial service laterals.</p> <p>Beyond the annexation and SDC costs, the Agency could offer additional assistance to help those property owners overcome market or infrastructure development barriers related to site preparation/grading, removal of invasive species (Scotch Broom), and adding or improving utility and transportation infrastructure.</p>	<p>Community Development, Planning Commission</p>

Rationale

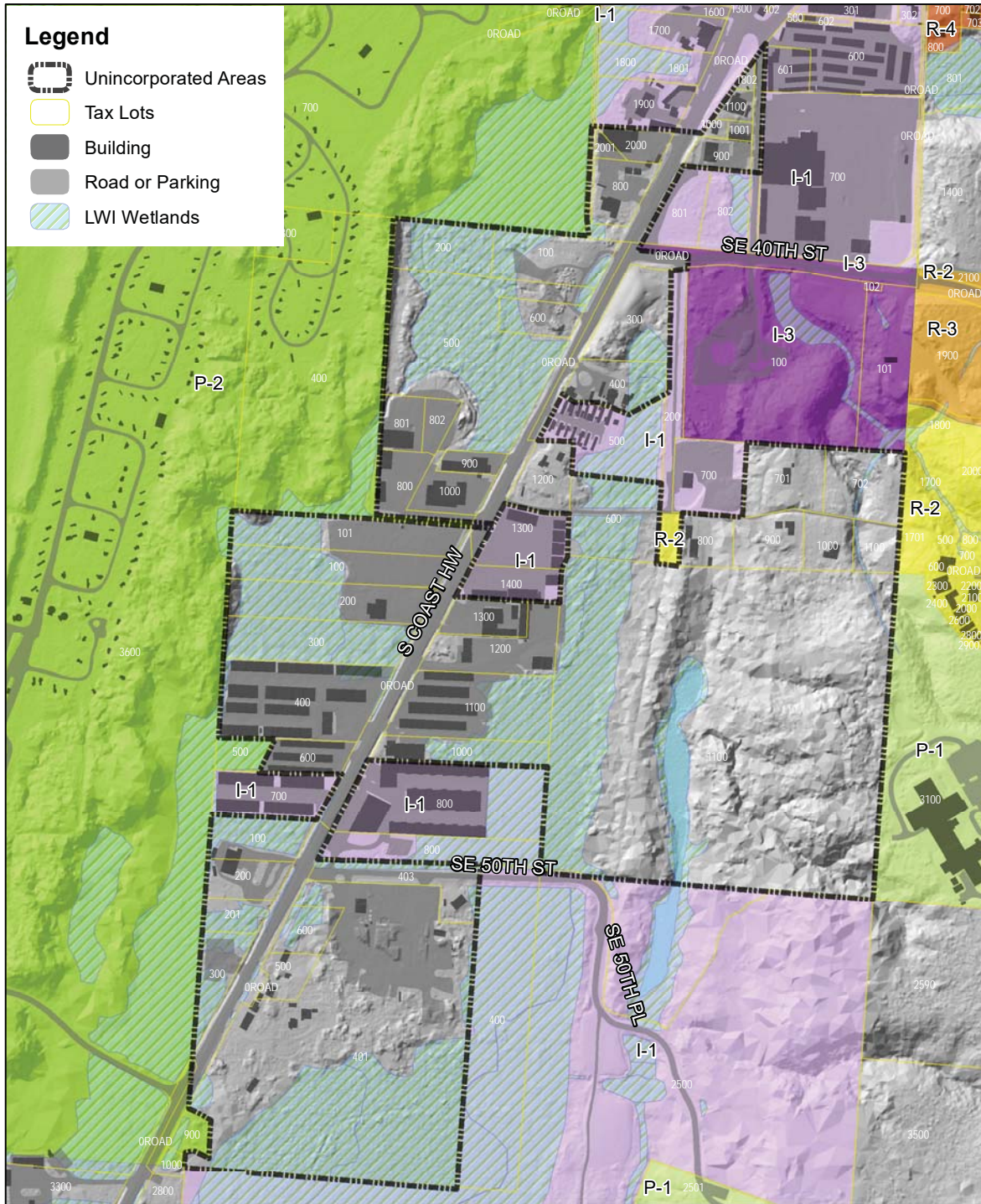
Annexing properties outside of city boundaries would:

- Make it easier for the City to provide infrastructure and services to those properties.
- Help to increase the desirability of those properties for industrial development.
- Help the City to achieve its economic development goals by enabling development at urban intensities and limiting development under County regulations that may be less compatible with urban renewal development goals.
- Normalize the municipal boundaries for emergency service providers.
- Create a condition where urban scale development can occur, improving the tax base for all taxing districts.
- Prevent property owners from having to retire old Seal Rock Water District debt for services they no longer receive.

<p>Alignment with Vision 2040</p>	<p>A14. Developable Land [Partner] C8. Local Businesses Support [Support] E6. Disaster Preparedness [Lead]</p>
<p>Implementation steps</p>	<ul style="list-style-type: none"> ▪ Refine the list of potential properties for outreach.

	<ul style="list-style-type: none"> ▪ Discuss predevelopment needs and annexation potential with identified property owners. ▪ Engage with Lincoln County to coordinate review of any development within the UGB to ensure that it is consistent with City goals and standards upon future annexation. ▪ Determine which zones are desired upon annexation to provide greater certainty and transparency for landowners and developers. ▪ Explore options for “island annexation” under ORS 222.750. ▪ Conduct outreach with property owners. ▪ Before proceeding with annexation: <ul style="list-style-type: none"> ○ Calculate specific amount of annexation expenses the City will cover. ○ Calculate the specific incentives needed to connect the property to the City’s sewer. ○ Develop language for agreements and a plan to have all properties annexed at one time to reduce costs. ▪ Coordinate with Lincoln County to complete the Urban Growth Management Agreement to ensure an orderly transition from County to City zoning.
<p>Public or stakeholder outreach needed</p>	<p>Outreach with property owners to is needed to determine development interest and whether the timing for that development would fall within the Agency’s investment window of 2022-2025. The City should engage with property owners to better understand specific concerns or uncertainties about annexation and encourage annexation. One approach could include developing informational resources for property owners highlighting development potential within the City compared to existing County regulations. In addition to tax and financial implications, these resources could outline any financial incentives for infrastructure development that could be available through the urban renewal area.</p>
<p>Partners</p>	<p>Conduct outreach with property owners to gauge interest in joining the City.</p>
<p>Estimated Cost</p>	<p>Funding Considerations</p>
<p>Up to \$500,000 (Preliminary estimate from the City of Newport; assumes all eligible properties are annexed at the same time)</p>	<p>Completing annexation of all willing properties at one time as opposed to piecemeal can reduce the overall costs associated with the annexation survey and staff time.</p>

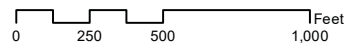
Exhibit 13. South Beach Unincorporated Areas within the Urban Renewal Boundary



NEWPORT
 City of Newport
 Community Development Department
 169 SW Coast Highway
 Newport, OR 97365
 Phone: 1.541.574.0629
 Fax: 1.541.574.0644

South Beach Unincorporated Commercial / Industrial Pocket

Image Taken July 2018
 4-inch, 4-band Digital Orthophotos
 Quantum Spatial, Inc. Corvallis, OR



This map is for informational use only and has not been prepared for, nor is it suitable for legal, engineering, or surveying purposes. It includes data from multiple sources. The City of Newport assumes no responsibility for its compilation or use and users of this information are cautioned to verify all information with the City of Newport Community Development Department.

C

Provide Sewer Infrastructure to Industrial Sites Near Newport Municipal Airport

Project Description	Lead
<p>The City will help implement sewer infrastructure investments to facilitate industrial development at the Airport. Based on a preliminary evaluation of the investment alternatives, the two that are most feasible are (1) Expand Airport Septic System (LOSS) and (2) Onsite Treatment WWTP (Package Plant w/Land Application) as determined in the Opportunities and Constraints Report.</p>	<p>Lincoln County concurrent with Animal Shelter project (with reimbursement from Agency).</p>
Rationale	
<p>Currently the sewer main stops at 50th Avenue and there is no sewer access to the Airport. This limits the types of industries that can function on nearby sites. Certain development projects that have been envisioned for the Airport industrial sites include airport hangars, flex warehouse, and industrial condominiums among others as noted in the Opportunities and Constraints Report. Sewer infrastructure would expand the realm of possibilities for these sites and reduce developer uncertainty around dealing with effluent.</p>	
Alignment with 2040 Vision	<p>A1. Infrastructure Investments [Lead] A14. Developable Land [Partner] B1. Sewer and Stormwater Management [Lead] C4. Airport Improvements [Lead]</p>
Implementation steps	<p>The LOSS is the most cost effective solution; however more detailed analysis is needed to confirm feasibility, including:</p> <ul style="list-style-type: none"> ▪ Discuss implementation steps and process with WWTP. ▪ For the LOSS, evaluate suitability of soils for a drain field, working with County sanitarian. ▪ Refine cost estimates against the agency’s funding capacity; factor in additional operations and maintenance expenditures. ▪ Determine if regulatory barriers can be overcome – both alternatives require permitting and the LOSS requires FAA review. ▪ Analyze cost implications for the city for ongoing maintenance of the system. ▪ Pursue installation of LOSS, preferably through development agreement with Lincoln County, if system is viable. Fully vet package plant option only if LOSS is not viable. ▪ Identify fee structure for future system connections that is equitable to all users.
Public or stakeholder outreach needed	<p>The City will conduct outreach with property owners where appropriate.</p>
Partners	<p>Urban Renewal Agency, City of Newport Public Works, Airport Committee, property owners</p>
Estimated Cost	Funding Considerations
<p>Planning estimates: LOSS - \$594,000 Onsite Treatment WWTP - \$1,960,000</p>	<p>Leveraging a development agreement with a lessee that would otherwise have to construct their own septic system will reduce Agency costs; the balance of funding would be from Urban Renewal. The lessee benefits because land they would otherwise have to dedicate to a septic system, drainfield, and replacement drainfield area can be dedicated to other uses.</p>

D Improve fire suppression capability at Airport industrial sites

Project Description	Lead
<p>The City will upgrade its water system at the Airport to enable adequate water flow rates for fire suppression. The Airport’s current water flow rate is between 400 to 600 gallons per minute at the hydrants. The Oregon State Fire Code adopted by the City of Newport requires that for any new structure being built there must be a minimum water flow rate of 1500 gallons per minute from the hydrants to fight fires. This flow rate might still limit the types of development that could be feasible.</p> <p>Potential options to increase and maintain water flows would include:</p> <ul style="list-style-type: none"> • A large water holding tank • Building a holding pond with a dry hydrant • Putting in booster stations and larger pipes • Automating the existing intertie between Seal Rock Water District and the City of Newport. The City would meter usage and use software that could pick up a sudden decrease in pressure attributed to hydrant use and automatically open up intertie to compensate. 	Public Works

Rationale

There is not enough water capacity to support fire suppression at the Newport Municipal Airport for certain types of development that the area might otherwise be able to attract.

Alignment with 2040 Vision	A1. Infrastructure Investments [Lead] A14. Developable Land [Partner]
Implementation steps	<ul style="list-style-type: none"> ▪ Public Works Department to assess automation options for City of Newport/Seal Rock Water intertie. ▪ Engineering study of the Airport’s water system to determine the most cost-effective option to be able to make the minimum 1500 gallons per minute water flow rate and have enough water on hand to fight fires.
Public or stakeholder outreach needed	Existing airport tenants
Partners	City of Newport Public Works, Seal Rock Water District
Estimated Cost	Funding Considerations
\$150,000 - \$500,000 (preliminary estimate)	Principal funding source will be urban renewal dollars. Automating intertie could be supported by water fund, if resources are available.

E Install redundant Yaquina Bay water pipeline

Project Description	Lead
<p>A significant system vulnerability is the single 12-inch ductile iron bay-crossing pipe installed in 1973 which conveys water to all areas south of Yaquina Bay.</p> <p>Per the 2008 Water System Master Plan, the City identified a preferred alignment between McLean Point and Idaho Point for potential horizontal directional drilling installation of a new redundant Bay crossing pipe.</p>	Public Works

Rationale

A failure of this line could not be repaired quickly and would leave the entire area south of the Bay with only the storage in the South Beach Tank.

Alignment with 2040 Vision	A1. Infrastructure Investments [Lead] E5. Disaster Preparedness [Lead]
Implementation steps	<ul style="list-style-type: none"> ▪ Complete detailed cost estimates ▪ Pursue resiliency grant funding (Application is being prepared for FEMA Hazzard Mitigation Grant) ▪ Determine potential funding sources and suitability for remaining funding needed (e.g., FEMA, American Jobs Plan, NOAA Resiliency Grants, etc.)
Public or stakeholder outreach needed	City will need to coordinate with Division of State Lands, the Army Corps of Engineers, and upland landowners to either side of the crossing.
Partners	Lincoln County, Port of Newport, and Yaquina Industrial Park (private owner at north end of crossing).
Estimated Cost	Funding Considerations
\$750,000 in urban renewal funds (grant match - Total: \$3 million)	FEMA or other grants, and water fund; if grants are unsuccessful the Agency could pay closer to \$3 million using surplus from other projects.

F Enhance South Beach placemaking through improvements to landscaping, public art, and gateways

Project Description	Lead
<p>The City will enhance South Beach’s sense of place by investing in landscaping, improving wayfinding, and adding amenities (including public art).</p> <ul style="list-style-type: none"> ▪ Gateways: <ul style="list-style-type: none"> ○ Northern: The City will establish a northern gateway into South Beach that could include wayfinding signage that clearly directs visitors to key South Beach destinations after they exit the Yaquina Bay Bridge. There are two potential locations identified in the Opportunities and Constraints Report: (1) the exit ramp from US 101 onto Abalone Street and (2) the north side of Safe Haven Hill right after the Yaquina Bay Bridge on the east side of US 101. ○ Southern: The City will establish a gateway into South Beach south of 35th Street to improve the arrival experience into South Beach and help businesses and other destinations off Hwy 101 that currently have limited visibility. The City has an opportunity to create a gateway feature south of 35th Street in the space created by the closure of the connection from US 101 to Ferry Slip Rd. Additional property may need to be acquired to accommodate the desired development program and gateway features. ▪ Landscaping: A coherent, complete, and uniformly branded path and trail network is an amenity unto itself and supports the local economy by providing additional ways for people to travel around South Beach. ▪ Key nodes/rest stops: The improvements will also identify key starting points for the pathway system for visitors which would include amenities like seating areas, drinking water, and bathrooms. Key locations are identified in Exhibit 14 and could include the SW 26th/Marine Science Drive, Ferry Slip/35th Street, the Hatfield Visitors Center, and the Aquarium Overflow Lot. ▪ Wayfinding and Public Art: As the final stage of improvements to transportation infrastructure (trails, gateways, and road infrastructure enhancements), the City would implement updated wayfinding elements and public art at different scales. Signage and public art would incorporate the overall identity for the district. Water-based themes related to the existing uses in the area as well as themes relating to the history of the area were the most popular among survey respondents. 	<p>Public Works, Community Development, Public Arts Committee</p>

Rationale

These improvements provide an opportunity to enhance the identity and sense of place in South Beach through landscaping, signage, and amenities. Visibility of South Beach destinations is limited from US 101. Currently, only standard roadway destination signage (which is often confusing) signals the approach to South Beach and its primary destinations. While destinations are compelling, there is little district-level sense of place. A northern gateway will create a sense of arrival and interconnectedness to the whole area. Additionally, consolidated wayfinding signage will contribute to cohesive navigation assistance and South Beach branding. This will help businesses and other destinations off Hwy 101 that currently have limited visibility.

<p>Alignment with 2040 Vision</p>	<p>A4. City Wide Beautification [Lead] B3. Parks and Recreation Needs and Upgrades [Lead] C7. Arts and Cultural Destination [Partner] D3. Art in Public Spaces [Lead],</p>
<p>Implementation steps</p>	<ul style="list-style-type: none"> ▪ Develop an RFP for landscaping, wayfinding, and public art improvements in South Beach. The work completed through this RFP would help to: <ul style="list-style-type: none"> ○ Design a community engagement plan that homes in on key investments for the area.

	<ul style="list-style-type: none"> ○ Determine design of landscaping along the trail, including opportunities for removal of invasive species in public ROWs (see precedent imagery for examples of how landscaping interacts with multimodal path improvements). ○ Determine the ideal location for the northern and southern gateways connects with other placemaking and mobility/safety projects. Determine the type of gateway feature and other programmatic elements of the site. ○ Evaluate current wayfinding signage and update as necessary. If the current wayfinding system is significantly incomplete, design a new wayfinding signage schema. ○ Identify potential locations for public art installations and work with the Public Arts Committee to commission pieces, develop a plan for wayfinding, public art, and landmarks. The group will confirm priority areas to focus on first (e.g., 35th Street Site). ○ Complete detailed cost estimates and a phasing plan, identifying which projects should be completed with urban renewal dollars. <ul style="list-style-type: none"> ▪ Based on phasing plan, install new gateway features, landscaping wayfinding, and public art. ▪ Analyze cost implications for the city for ongoing maintenance of the landscaping, public art, and gateways
<p>Public or stakeholder outreach needed</p>	<p>The RFP for services would include stakeholder engagement with area residents, employers, visitors, and key organizations for feedback on location and design alternatives for all placemaking elements. The City could reach out to local artists to commission art along the trail. The City will coordinate with the Public Arts Committee for gateway feature design ideas and execution.</p>
<p>Partners</p>	<p>City of Newport Public Works, Public Arts Committee, South Beach businesses, residents, key organizations in South Beach.</p>
<p>Estimated Cost</p>	<p>Funding Considerations</p>
<p>\$1 million (\$150-250K in consulting fees, up to \$850,000 in improvements)</p>	<p>The Urban Renewal Agency would fund key aspects of this project but could seek other funding for public art improvements.</p>

Precedent Imagery

The images below illustrate the types of placemaking that could improve South Beach's sense of place.⁵

LANDSCAPING, ART, PLACEMAKING, GATEWAYS



Landscape Gateway (Pendleton, OR)



Arch Sign Gateway (Bandon, OR)



Monument Sign Gateway (Portland, OR)



Public Space / Park Gateway (Sherwood, OR)



Public Park and sculpture at prominent corner (Troutdale, OR)



Stormwater corridor and gathering space as part of street vacation walkway (Portland, OR)

⁵ Photos compiled by SERA Architects



Signage gateway (Tigard, OR)



Trailhead plaza and outdoor museum on Tigard Heritage Trail (Tigard, OR)



Murals and large-scale art (Eugene, OR)



Trail and community node gateway with seating and art (Clackamas County, OR)

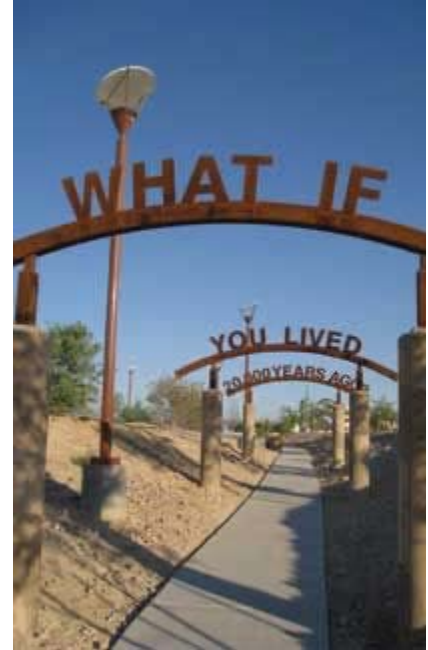


Sidewalk Sculpture Art (Grand Junction, CO)



Fish sculpture along working waterfront and trail (Bandon, OR)

WAYFINDING SIGNAGE





G Enhance Mobility for Cyclists and Pedestrians through South Beach Loop Path Improvements

Project Description	Lead
<p>The City will enhance the existing multi-use pathway network in South Beach by installing new segments, improving surfaces, and improving crossing safety. These improvements will provide a safer and more comfortable way to travel by bike or on foot throughout the area.</p>	<p>Public Works, Community Development, Bike and Pedestrian Committee, Parks and Recreation Committee</p>

Rationale

Improvements to the South Beach multi-use path, which connects most of the key destinations in South Beach, could enhance the bike ability and walkability of South Beach. These improvements provide an opportunity to enhance the identity and sense of place in South Beach by creating cohesive trail pavement. A coherent, complete, and uniformly branded path and trail network is an amenity unto itself and helps support the local economy by providing additional ways for people to travel around South Beach.

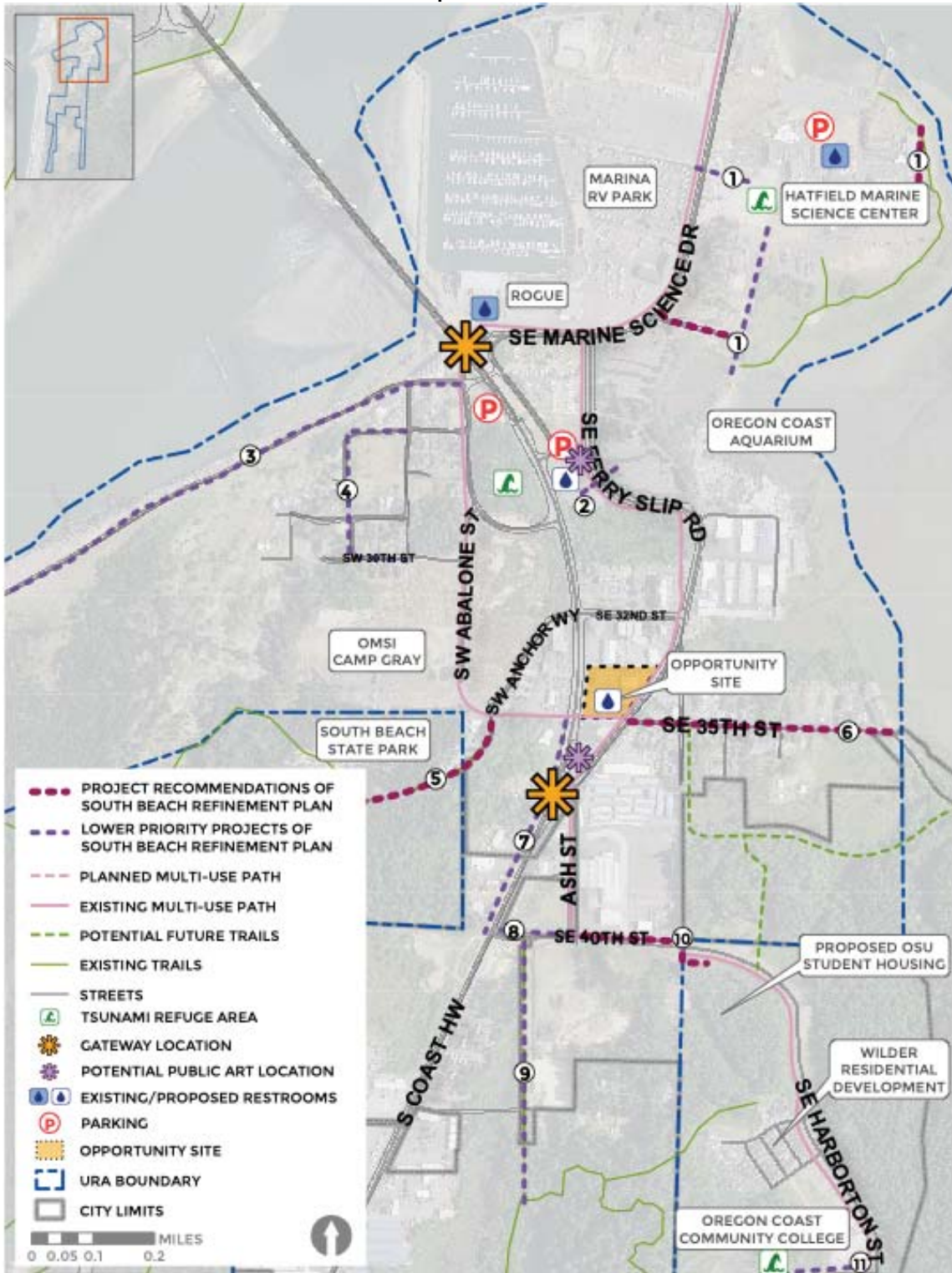
The current trail network in South Beach is patchy and some parts are not ADA compliant. In the event of a tsunami, residents and visitors alike may struggle to access evacuation sites if trail connections are not improved and maintained. The projects below will fill significant gaps in the mobility network and improve accessibility and navigability to both key destinations and several tsunami assembly areas. To be best qualified for urban renewal funding support, these projects should help to enhance mobility between destinations.

Exhibit 14 and Exhibit 15 provide an overview of the potential connections in South Beach, while Exhibit 16 provides an evaluation of each alignment based on several criteria: whether the alignment completes the multimodal network, community/support (based on investment priorities and focus group conversations), and its focus (recreational or housing/jobs connection). We have prioritized five alignments based on this evaluation.

<p>Alignment with 2040 Vision</p>	<p>A11. Bicycle and pedestrian Safety and Amenities [Lead] A12. Multiuse Paths and Trails [Lead] A15. Complete Streets [Partner] B2. Integrated Shared-Use Trail System [Lead] C6. Tourism Diversification [Partner]</p>
<p>Implementation steps</p>	<ul style="list-style-type: none"> ▪ Coordinate with South Beach State Park on their planned trail connections ▪ Release an RFP that seeks consultant assistance in completing detailed designs and inventorying surface conditions. ▪ Award priority projects by 2025 ▪ Analyze cost implications for the city for ongoing maintenance of the path improvements ▪ Signage costs depend on material cost ▪ 18 regular blade signs on poles ▪ 3 vehicular signs ▪ 1 informational kiosk (map on both sides)

Public or stakeholder outreach needed	The City could seek input from the community on residents' mobility needs (i.e. where they want to go and how they want to get there) and landowners along the trail network.
Partners	City of Newport Public Works, Bike and Pedestrian Committee, local property owners
Estimated Cost	Funding Considerations
<p>\$1.3 - 1.45 million (high priority projects only, excluding ROW acquisition)</p> <p>Total Cost for all multimodal path improvements: \$3 million to \$3.4 million+</p>	<p>Given the limited window for completing the projects, it is expected that the bulk of the funding will be urban renewal dollars. The Aquarium, HMSC, OPRD, and ODOT might be contributors for projects that specifically benefit their facilities. Travel Oregon grant funding might be available for wayfinding enhancements.</p>

Exhibit 14. South Beach Multimodal Concepts



NEWPORT SOUTH BEACH / US 101 REFINEMENT PLAN



Exhibit 15. Multimodal Connections in South Beach

Map Key	Project	Description	Implementation Considerations	Estimated Cost	Focus
1	Hatfield Marine Science Center Path	PRIORITY 1,700-ft eastward path improvement connecting to the Estuary Trail	Verify recently built improvements through the HMSC west side parking lot and links to the path network on the west side of SE Marine Science Dr.	\$230,000 (east path to the Estuary Trail)	Recreation
		LOWER PRIORITY 1,200-ft path from the Marina RV Park at SE Marine Science Drive along the south side of the new HMSC building and southward on Hatfield Marine Science Center driveway to SE 25th		\$160,000 (Path along the driveway to the south of the Science Center)	Resiliency
2	Enhance crossing to Aquarium overflow lot on Ferry Slip Road	PRIORITY 120-ft new path with one improved street crossing on the south.	Crossing improvements will need to be well-marked and coordinated with traffic operations along the busy access road. Both new path segments will require some tree clearing.	\$40,000 for path and marked crossing; add'l \$30,000 for crossing warning lights	Recreation
3	Jetty Multiuse Path	LOWER PRIORITY Approximately 0.8-mile new multi-use path along SW Jetty Way from SW Abalone to the Yaquina Bay South Jetty trailhead.	Path on south side would be simpler to construct; path of north side would offer greater views of the Bay from the trail but may require extensive shoring and structural work.	\$560,000 – for new path site preparation and construction; does not include any right-of-way acquisition	Recreation
4	Extended shared use path in Coho/Brant neighborhood	LOWER PRIORITY 350-ft shared-use path along SW 26th to fill the gap between SW Brant and SW Abalone	May require right-of-way expansion to fit the path on road segment. Off-street segment north of SW 29th St. may be through private or public property (additional investigation needed)	\$50,000+ for segment on SW 26 th ; largely depends on right-of-way needs and facility design as separated path or in-street allocation	Housing/Jobs Connection
		LOWER PRIORITY ¼ mile path extension on SW 27th, SW Coho, and SW 30th connecting to the existing system on SW Brant. The includes both street-adjacent paths and a segment through forested area north of SW 29th Street	Alignment may not be suitable	\$100,000+ for clearing, grading, and construction for segment on SW 27 th , SW Coho, and SW 30 th ; more if land acquisition is needed.	Housing/Jobs Connection
5	Planned trail connection to South Beach State Park	PRIORITY 950-ft path system both aside a street and as new construction through a forested area. This path will connect South Beach State Park to the growing path system on SW Abalone and throughout South Beach.	Needs coordination with Oregon State Parks department May be eligible for disaster planning funding pending level of improvement to the path linking to the existing SW 35 th Street segment.	\$150,000- \$280,000 depending on trail width, alignment, surface materials, and tree removal or protection needs	Recreation

Map Key	Project	Description	Implementation Considerations	Estimated Cost	Focus
6	35 th Street Sidewalk Improvements	PRIORITY New sidewalks, curb cuts, and curbs on SE 35 th Street between SE Ferry Slip and eastward to the URA Boundary approximately near South Beach Manor Memory Care. This segment is 1,600 ft long.	Urban renewal or CIP funds are the most likely	\$750,000 for sidewalks on both sides of street. Does not include right-of-way acquisition, regrading, or stormwater system installation - which could increase costs by several fold.	Housing/Services Connection
7	Multimodal path west side of Hwy 101 between SE 35 th and SE 40 th	LOWER PRIORITY 1,400-ft shared path constructed to provide a separated walking and biking facility along this stretch of busy Hwy 101.	Due to upcoming closure of SE Ferry Slip Rd access to Hwy 101, this segment should face no street crossings other than those at the endpoint streets.	\$200,000 for alignment preparation, grading, and new construction	Housing/Services Connection
8	Multimodal path along SE 40 th St. from Hwy 101 to Ash	LOWER PRIORITY Complete missing segment of the path system along SE 40 th by building a 450-ft segment along the north side of the street between Hwy 101 and SE Ash Street.	Land acquisition needed for right-of-way expansion to fit the path.	\$70,000 for clearing, grading, and path construction; TBD for land acquisition	Housing/Jobs Connection
9	Improved trail connection between 40 th St. and Mike Miller Park	LOWER PRIORITY Construct an approximately 1,600-ft path routed along the west side of the minor road between SE 40 th and SE 42 nd , and extending through forested area to then link to the Mike Miller Park Educational Trail.	May require right-of-way expansion to accommodate the path adjacent to the road segment. To-be-determined routing, land acquisition, and construction complexity through forested land.	\$200,000 or more for path segment along the road. Additional cost if land must be acquired for right-of-way. To-be-determined cost for path through forested land.	Recreation
10	Improved connection from Ash to Wilder along 40 th St.	PRIORITY Complete the missing segment along SE 40 th by building a 750-ft segment along the south side of the street from SE Ash to the east connecting to the existing path that continues to Wilder. This project also includes a marked crossing of the west leg of SE 40 th / SE Ash.	Land acquisition to expand right-of-way may be needed. Complex shoring and grading may be needed to support the path near the existing water retention pond.	\$120,000 for marked crossing and path construction. Additional \$50,000 - \$100,000 for slope shoring. TBD for land acquisition if needed.	Housing/Jobs Connection
11	Oregon Coast Community College Multi-use path	LOWER PRIORITY New ~400-ft path along SE College Way will complete the connection of the Wilder path network to OCCC and provide improved tsunami evacuation routing	Requires minor tree clearing depending on final alignment. Connection could be extended formally across the parking lot at the west end, adding cost and considerations to reduce conflicts.	\$75,000 for tree clearing, grading, and path	Recreation Housing/Jobs Connecting
Total				\$2.9 - \$3.4 million+*	
Priority				\$1.3-\$1.45 million+ without ROW acquisition	

* These cost estimates are preliminary and pending review from Public Works and other reviewers.

Exhibit 16. Evaluation of South Beach Multimodal Concepts (Ranked by Community Support and Ability to Complete the Network)

Potential Investment	Prioritized?	Focus	Completes network?	Community support	Funding considerations
5. Planned trail connection to South Beach State Park	Yes, within URA boundary	Completes South Beach "loop", provides better connections to tsunami assembly area	High	High – residents and visitors want to be able to "complete" the loop on foot or bike. This ranked highest on the survey.	Potential funding support from Oregon State Parks and/or disaster preparedness grants. Part of connection is outside of URA boundary.
6. 35 th Street sidewalk improvements	Yes	Helps to complete street network serving the neighborhood	High	High – residents want a complete multimodal network in the neighborhood. Scored moderately on the survey	
10. Improved connection from Ash to Wilder along 40 th St.	Yes	Connects jobs and housing, increases safety	High	Medium – many residents use the existing path to Wilder however it was lower priority to survey respondents.	Like requires ROW acquisition.
1. Hatfield Marine Science Center Path (public ROW only)	Yes	Increases connectivity near Hatfield, connects to tsunami assembly area	Medium	High – residents would like to improve resiliency and connect to the Estuary Trail for recreation. Ranked high on the survey	Hatfield most likely to complete projects on its campus, except for linkage in public ROW
2. Enhance crossing to Aquarium overflow lot on Ferry Slip Road	Yes	Increases safety near the Aquarium, completes network link	Medium	Medium – residents and visitors would like to improve safe access to the aquarium, scored moderately on survey.	Possible non-URA funding for public art improvements
3. Jetty Multiuse Path	No	Enhances safety for recreational uses on Jetty Road	High	High – residents want to feel safe biking/walking down Jetty Rd. This ranked second highest on survey.	City to pursue ODOT or other grants to explore feasibility (Community Path or All Roads Transportation Safety Program)
9. Improved trail connection between 40 th St. and Mike Miller Park	No	Creates recreational trail connection	High	Medium – this came up as a moderate priority in the survey.	
7. Multimodal path west side of Hwy 101 between SE 35 th and SE 40 th	No	Improves highway safety	Medium	Medium - Ranked moderately on the survey.	ODOT could help to fund these improvements.
4. Extended shared use path in Coho/Brant neighborhood	No	Enhances connectivity in Coho-Brant	Medium	Low – some residents want to complete the multimodal network in the neighborhood. This was ranked lowest in the survey.	URA funding could be available for "high priority section" listed in Exhibit 15, but LID from neighboring property owners would likely be required.
8. Multimodal path along SE 40 th St. from Hwy 101 to Ash	No	Completes an infrequently used multimodal link	Low	Low – residents do not frequently use this route; scored fairly low on the survey.	ODOT Community Path Grants and All Roads Transportation Safety Program
11. Oregon Coast Community College Multi-use path	No	Connects to tsunami assembly area, completes recreation path	Low	Low – some residents expressed concerns with resiliency and disaster preparedness; this connection would improve access to tsunami assembly area. This ranked second lowest in the survey	Community college is most likely to implement this project. FEMA hazard mitigation grants; ODOT Community Path Grants and All Roads Transportation Safety Program; Restoration grants for landscaping and roadway beautification

Precedent Imagery

The images below illustrate the types of pathways that could enhance mobility for pedestrians and cyclists.⁶

GENERAL PATHWAYS



Landscaped path



Path enhanced with native plantings



Elevated boardwalk helps protect sensitive ecosystems and seasonal water flows



Trail branding with basalt stone, rest area pullouts, and unique lighting fixtures (Trolley Trail, Clackamas County, OR)



⁶ Photos compiled by SERA Architects

Picnic shelter and bike parking stopping point along a trail



Fanno Creek Trail connection to downtown Tigard, Ore., with branding signage

Trail/Park restroom (Foothills Park - Lake Oswego, OR)



Trail wayfinding signage (Clackamas County, OR)



Marked street crossing for multi-use path



Path connection for walking and biking created as part of a street vehicle closure (Portland, OR)



Distinct lighting features, path separation markings, and landscape improvements support wayfinding and the sense of place in a trail system. (Vancouver, BC)



Waterfront trail system with lighting and hearty, native planting

H Install a traffic signal and enhanced pedestrian facilities at 40th Avenue and U.S. 101

Project Description	Lead
<p>The City will install a traffic signal for three approaches, coordinate utilities, and repave the intersection, ADA ramps, striping, signing, and Right-Of-Way (at SW corner, SE corner, and NE segment behind proposed sidewalk extension). A roundabout could be considered if the City cannot meet state requirements for a signal.</p> <p>Additional project elements could include:</p> <ol style="list-style-type: none"> 1) Extending a 6-foot-wide sidewalk from the ramp at the south end of the crosswalk at SE Ferry Slip along the east side of US 101 to SE 40th. 2) A 10-foot-wide multi-use path from SW 35th St. to SW 40th St. 	<p>Community Development, Public Works</p>

Rationale

Signalization at 40th Street will open the door for planned development and ease congestion in South Beach, improving safety and ease of access to the Wilder development, Oregon Coast Community College, and the planned OSU student housing development.

Alignment with 2040 Vision	<p>A10. Street, Highway and Bridge Improvements [Lead] A11. Bicycle and Pedestrian Safety and Amenities [Lead]</p>
Implementation steps	<ul style="list-style-type: none"> ▪ Evaluate the intersection for compliance with ODOT traffic control warrants. ▪ Have the new traffic signal, or roundabout, authorized by the State Traffic Engineer. ▪ Determine the extent of the project – will it include one or both additional multimodal improvements. ▪ Acquire the necessary ROWs. ▪ Develop a construction traffic plan to minimize impacts.
Public or stakeholder outreach needed	<p>The city will need to reach out to landowners to acquire ROWs.</p>
Partners	<p>ODOT, Public Works, neighboring property owners</p>
Estimated Cost	Funding Considerations
<p>\$1.5 million (intersection improvements only, bike/ped improvements listed in Project G, #8)</p>	<p>It is expected that urban renewal funds will be used to construct the signal. ODOT might contribute to stretch the scope of the project if they conclude that the intersection meets signal warrants.</p>

AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY

This AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY ("Agreement") is made as of _____ (the "Effective Date") by and between _____, a _____ in the State of Oregon ("Developer") and the Newport Urban Renewal Agency, an urban renewal agency, organized and existing under ORS Chapter 457 ("Agency"). Agency and Developer may be referred to jointly in this Agreement as the "Parties" and individually as a "Party."

- A. Agency owns fee title to certain real property located in Lincoln County, Oregon, commonly known as 3335 South Coast Highway and more particularly described in Section 2.2 which is incorporated by reference herein (the "Property").
- B. Property was acquired by Agency in 2015 to facilitate construction of the US 101 and SE 35th Street highway intersection, and create an opportunity for commercial redevelopment consistent with Agency's responsibility to pursue opportunities to enhance the areas tax base as set forth in the South Beach Urban Renewal Plan and Report, adopted in 1983 and as amended from time to time, the ("Urban Renewal Plan.").
- C. The US 101 and SE 35th Street highway intersection improvements are now complete, and Agency desires to redevelop the Property. To that end, Agency completed a round of public engagement, as part of a fourteenth amendment to the Urban Renewal Plan, known as the "South Beach/US 101 Refinement Plan", to identify the types of commercial uses that area residents, employees, and visitors would like to see attracted to the area.
- D. Agency subsequently issued a Request for Proposals ("RFP") seeking to partner with a developer(s) to redevelop the Property in a manner consistent with the commercial redevelopment concepts identified in the South Beach/US 101 Refinement Plan. Developer submitted a proposal in response to the RFP, and Agency identified their redevelopment concept as the preferred end use of the Property that will best meet the needs of area residents, employees, and visitors.
- E. Developer's development of the Property will consist of

_____ (collectively, the "Project").
- F. Agency accepts that it is responsible for providing Developer with a cleared, ready to develop Property upon which to construct the Project, requiring the removal of existing buildings and paved surfaces.
- G. Developer will design Project in accordance with all applicable local, state, and federal regulations.
- H. Fulfillment of this Agreement, and the intentions set forth herein, are in the best interests of the City, and are in accord with the public purposes and provisions of the applicable state and federal laws and requirements under which the Urban Renewal Plan was adopted.
- I. Capitalized terms shall have the meanings ascribed to them herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and conditions contained in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. DEFINED TERMS

Words that are capitalized, and that are not the first word of a sentence, are defined terms. A defined term has the meaning given it when it is first defined in this Agreement. Some defined terms are first defined in the text of this Agreement and some are first defined in Exhibit A, which is a glossary of defined terms not defined in the text of this Agreement. Defined terms may be used together and the combined defined term has the meaning of the combined defined terms. A defined term that is a noun may be used in its verb or adjective form and vice-versa. If there is any difference between the definition of a defined term in the text of this Agreement and a definition of that term in Exhibit A, the definition in the text controls. Defined terms may be used in the singular or the plural.

2. GENERAL TERMS OF CONVEYANCE

2.1. Agreement for Disposition and Development. Agency agrees to sell and convey the Property to Developer, and Developer agrees to develop and purchase the Property under the terms and conditions set forth in this Agreement.

2.2. Description of Property. The Property subject to this Agreement consists of approximately 2.3 acres located at the northeast corner of US 101 and SE 35th Street, as more particularly described in Exhibit B attached hereto, together with: (i) all rights, licenses, privileges, reversions and easements appurtenant to the Property, including, without limitation, all development rights, air rights, mineral and oil and gas rights, water rights, water and water stock relating to the Property and any other easements, rights of way or appurtenances used in connection with the beneficial use and enjoyment of the Property; (ii) all improvements, equipment, fixtures or other personal property of every kind located on the Property, including without limitation all buildings and structures presently located on the Property, all apparatus, equipment and appliances used in connection with the operation or occupancy of the improvements and fixtures; and (iii) any and all permits, warranties, intangible property, and any other personal property assets owned by Agency with respect to the Property and the improvements thereon.

2.3. Purchase Price; Conveyance. The purchase price for the Property is _____ (the "Purchase Price"), said amount being commensurate to the value proposition of Developer's Project.

2.4. "AS IS" Sale. Developer will examine and investigate the Property to its own satisfaction and will form its own opinion as to the condition (including the environmental condition) and value thereof. Except as expressly set forth in this Agreement, Developer will not be relying on any statements or representations from Agency or any person acting on behalf of Agency concerning any of the following: (i) the size or area of the Property; (ii) the location of corners or boundaries of the Property; (iii) the condition of the Property, including but not limited to, physical or geotechnical properties above or below the surface of the Property or the Environmental Condition adjacent, above or below the surface of the Property (including without limitation releases or threatened releases of hazardous or regulated substances) or compliance with Environmental Laws and other governmental requirements; (iv) the availability of services to the Property; or (v) the ability of Developer to use the Property or any portion thereof for any intended purpose, including the Project. Developer is acquiring the Property, in the condition existing at the time of Closing, AS IS, with all defects, if any. If the Closing occurs and except as otherwise expressly provided in this Agreement, Developer shall be deemed to waive, release and forever discharge Agency and Agency's successors and assigns, of and from all claims, actions, causes of action, fines, penalties, damages (including consequential, incidental and special damages), costs (including the cost of

complying with any judicial or governmental order), and expenses (including attorney fees), direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way growing out of or in connection with any physical characteristic or condition of the Property at the time of Closing, including any surface or subsurface condition, or any law, rule or regulation applicable to the Property. The provisions of this section will be included in the Deed, and will survive the Closing and are binding on the Developer and Developer's successors and assigns.

2.5. Access, Inspection, Due Diligence and Title Matters

2.5.1 Access and Inspection. Before the Conveyance of the Property to Developer, and pursuant to a written permit of entry, Agency will allow Developer and Developer's employees, agents and consultants to enter upon the Property, at all reasonable times whenever and to the extent necessary to carry out the purposes of this Agreement.

2.5.2. Due Diligence Materials. Developer acknowledges that Agency has provided Developer a Preliminary Title Report or Reports covering the Property, and exception documents referenced in the Preliminary Title Report or Reports (collectively, the "Title Report"). Agency has further provided Developer copies of all documents with respect to the Property that Agency has in its possession, including the Environmental Reports.

2.5.3. Due Diligence and Title Review. Developer has had the opportunity to review the Title Report and Environmental Reports and determined that Developer is satisfied with all aspects of the Property, including without limitation, the Environmental Reports, a survey of the Property, the Title Report, and any other documents or information Developer required in order to evaluate the feasibility of the Project and its decision to accept a Conveyance of the Property. Encumbrances existing as of the Effective Date are considered "Final Permitted Exceptions."

2.5.4. Title Insurance. Agency will pay the cost of a standard coverage Owner's Policy of Title Insurance, issued by Escrow Agent (as hereinafter defined), covering the Property when conveyed, and insuring Developer in an amount equal to the Purchase Price, free and clear of encumbrances, except Final Permitted Exceptions. Developer, at its option and its expense, may elect to obtain extended coverage under such policy of title insurance, and Agency agrees to execute any affidavits or other documents reasonably required by the Escrow Agent to enable Developer to obtain such coverage. Developer may also elect to obtain a survey at its own expense.

2.6. Oregon Prevailing Wage Law.

2.6.1. Request for Determination. As soon after the Effective Date as reasonably possible, the Parties will work collaboratively to submit this Agreement and other required or relevant documents to the Oregon Bureau of Labor and Industries ("BOLI") for a determination letter (the "BOLI Determination Letter") stating that ORS 279C.810-to 279C.870 and the administrative rules adopted thereunder (the "Oregon Prevailing Wage Laws") do not apply to any portion of the development and construction of the Project.

2.6.2. Determination of Applicability of Oregon Prevailing Wage Laws. If the BOLI Determination Letter states that Oregon Prevailing Wage Laws apply to all or any portion of the Project, and that determination is not reversed following a request for reconsideration, or if neither Party requests reconsideration, then Developer may terminate this Agreement or the City may terminate this Agreement by written notice to Developer

pursuant to Section 13.1. If neither party terminates this Agreement under this Section, and the Developer determines to proceed with the Project, Developer must demonstrate to the City's reasonable satisfaction that sufficient financial capacity exists to complete the Project.

3. REPRESENTATIONS AND WARRANTIES.

3.1 Agency Representations and Warranties. To induce Developer to enter into and perform its obligations under this Agreement, the Agency hereby makes the following representations and warranties with respect to the Property, upon each of which Developer is entitled to rely and has relied, and each of which is true in all material respects as of the Effective Date and shall be true as of the Closing:

3.1.1. Agency is an urban renewal Agency duly organized, validly existing and in good standing under the laws of the state of Oregon.

3.1.2. The Agency has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated by this Agreement.

3.1.3. Each of the individuals executing this Agreement on behalf of the Agency has full power and authority to execute and deliver this Agreement on behalf of the Agency.

3.1.4. This Agreement has been duly executed and delivered by the Agency and is a valid and binding obligation of the Agency, enforceable against the Agency in accordance with its terms.

3.1.5. To Agency's Knowledge, Agency has not generated, manufactured, refined, transported, treated, stored, handled, disposed, transferred, Released or produced Hazardous Substances on the Property, and no underground storage tanks exist on the Property, except in compliance with Environmental Laws currently in effect, and Agency has not received notice of the Release of any Hazardous Substances on the Property.

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

3.1.7. To Agency's Knowledge, there is no litigation, action, suit, or any condemnation, environmental, zoning, or other government proceeding pending or threatened, which may affect the Property, or Agency's ability to perform its obligations under this Agreement.

3.1.8. To Agency's Knowledge, and except as otherwise disclosed in writing to Developer before the Effective Date, the Property has been operated in compliance with all applicable laws, rules, regulations, ordinances and other governmental requirements (collectively, "Laws").

3.1.9. To Agency's Knowledge, Agency has not received any notice stating that the Property is in violation of any applicable laws, rules, regulations, ordinances or other governmental requirements.

3.1.10. To Agency's Knowledge, there are no contracts or other obligations outstanding

for the sale, exchange or transfer of the Property or any portion thereof, including without limitation options to purchase or rights of first refusal. Further, no leases or other contracts for use of Property will be in effect as of the Closing.

3.1.11. To Agency's Knowledge there are no claims for labor performed for or materials furnished to or with respect to the Property which could give rise to a mechanic's lien on the Property;

3.1.12 To Agency's Knowledge, the City's existing infrastructure, including existing water, sanitary sewer and storm water lines, has sufficient capacity or will have sufficient capacity at Closing to accommodate Developer's Project.

3.1.13 Neither the execution and delivery of this Agreement and documents referred to herein, nor the incurring of the obligations set forth herein, nor the consummation of the transactions herein contemplated, nor compliance with the terms of this Agreement and the documents referred to herein conflict with or result in the material breach of any terms, conditions, or provisions of, or constitute a default under any bond, note or other evidence of indebtedness, or any contract, indenture, mortgage, deed of trust, loan, partnership agreement, lease, or other agreements or instruments to which the Agency is a party.

3.1.14 No representation, warranty or statement of Agency in this Agreement or any of the exhibits attached hereto contains any untrue statement of a material fact or omits a material fact necessary to make the representation, warranty or statement not misleading.

3.2 Representations and Warranties of Developer. The Developer hereby makes the following representations and warranties, upon each of which the Agency is entitled to rely and has relied, and each of which is true in all material respects on the Effective Date and shall be true as of the Closing:

3.2.1. Developer is a domestic business corporation duly formed and existing in the State of Oregon.

3.2.2. Developer has or will have at the time of Closing a City of Newport business license.

3.2.3. Developer has the legal power, right, and authority to enter into this Agreement and the instruments referred to herein and to consummate the transactions contemplated by this Agreement.

3.2.4. Each of the individuals executing this Agreement on behalf of Developer has full power and authority to execute and deliver this Agreement on behalf of Developer.

3.2.5. This Agreement and all documents required to be executed by Developer are and shall be valid, legally binding obligations of and enforceable against Developer in accordance with their terms.

3.2.6. The execution, delivery and performance by Developer of this Agreement and the instruments referenced herein and the transaction contemplated hereby will not conflict with, or with or without notice or the passage of time or both, result in a breach of, violate any term or provision of, or constitute a default under any articles of formation, bylaws, partnership agreement, operating agreement, indenture, deed of trust, mortgage, contract,

agreement (oral or written), judicial or administrative order, federal, state or local laws, statutes, codes, regulations, rules, ordinances, orders, policy directives, judgments or decrees (including common law), including those of judicial and administrative bodies to which Developer is bound.

3.2.7. No representation, warranty or statement of Developer in this Agreement or any of the exhibits attached hereto contains any untrue statement of a material fact or omits a material fact necessary to make the representation, warranty or statement not misleading.

3.2.8. Developer enters into this Agreement without reliance on verbal representations by Agency, its employees, agents or consultants, regarding any aspect of the Property, the Project, its feasibility, financing, or compliance with any governmental regulation.

3.2.9. As of the Effective Date, Developer is not in default under this Agreement and no event has occurred that, with the passage of time or the giving of notice or both, would constitute a default of Developer under this Agreement.

3.3 Notification of Changes. Prior to Closing, the Parties agree to notify each other immediately, in writing, if they discover that any representation or warranty, though believed to be true when made, is, in fact, not true, or if facts and circumstances underlying their respective representations or warranties, though true when made, have changed. The party receiving such written notification may either (a) terminate the Agreement, in which event the Parties will have no further obligation under this Agreement; or (b) proceed to close the purchase and sale of the Property as set forth in this Agreement, provided, however, that the notifying party cures such false, misleading or changed representation or warranty.

4. CONDITIONS PRECEDENT TO CLOSING.

4.1 Conditions. Developer and Agency are not obligated to proceed with the Conveyance of the Property unless the following conditions are satisfied prior to Closing. The Party benefited by a particular condition shall not unreasonably withhold, condition, or delay acknowledgment that the condition has been satisfied.

4.1.1. To the reasonable satisfaction of both Agency and Developer, which conditions must be waived in writing by both Agency and Developer if not satisfied:

(i) Developer prepared Drawings have been approved by all required governmental entities and/or agencies, including Agency pursuant to Section 7.2.

(ii) All land use approvals for the Project required by the Newport Municipal Code have been secured and no appeal of any required approval or permit shall have been filed, and the time for any such appeal shall have expired. If an appeal was filed, it shall have been finally resolved.

(iii) Confirmation that the Newport Community Development Department is ready to issue the building permits that are required to construct the Project, subject only to Developer's ownership of the Property.

(iv) All financing necessary to construct the Project has closed and/or Developer has obtained commitments for such financing.

(v) No litigation is pending that prevents Agency or Developer from performing their respective obligations under this Agreement.

(vi.) The parties shall have agreed on a Schedule of Performance as noted in Exhibit F.

4.1.2. To Developer's reasonable satisfaction, which conditions may be waived in writing solely by Developer if not satisfied:

(i) Agency has removed buildings, structures, and paved surfaces from the Property so that it is ready for development.

(ii) Agency is not in default under this Agreement and no event has occurred that, with notice or passage of time or both notice and passage of time, would constitute a default of Agency under this Agreement.

(iii) No material adverse change in the physical or legal condition of the Property has occurred.

(iv) The Parties have obtained a Final Determination Letter (as defined in Section 2.6) indicating that Prevailing Wage Requirements (as defined in Section 2.6) do not apply to the Project.

(iv) The Title Company is prepared to issue to Developer the form of Title Insurance selected by Developer under Section 2.5, covering the Property in the amount of the Purchase Price, subject only to the Final Permitted Exceptions.

4.1.3. To Agency's reasonable satisfaction, which conditions may be waived in writing solely by Agency if not satisfied:

(i) Developer has provided to Agency documentation that:

(a) Developer is a legal entity qualified to do business in the state of Oregon;

(b) Developer has full power and authority to enter into and perform its obligations under this Agreement; and

(c) This Agreement has been executed and delivered, for and on behalf of Developer, by an authorized individual.

(ii) Title Company has issued to Agency a binding commitment, satisfactory to Agency, to issue a lender's extended title insurance policy covering the Property in the amount of the Purchase Price.

(iii) Agency has approved the Project Budget and Developer has demonstrated financial feasibility for the Project, consistent with the Project Budget, by providing to Agency:

(a) The General Contractor's guaranteed maximum price (GMP);
and

(b) The Project Budget and proforma which includes all final sources of financing and all final construction and construction related costs.

(iv) Developer is not in default under this Agreement and no event has occurred that, with notice or passage of time or both notice and passage of time, would constitute a default of Developer under this Agreement.

4.2. Elections upon Non-Satisfaction of Conditions. If any condition in this Section 4.1 is not fulfilled to the satisfaction of the benefited Party or Parties as of the Closing Date (or such later date, if any, designated pursuant to Section 4.2(c) below or determined in accordance with Section 4.3), then such benefited Party or Parties may elect as follows:

(a) Terminate this Agreement by and effective upon written notice to the other Party; or

(b) Waive in writing the benefit of that condition and proceed in accordance with the terms hereof; or

(c) Designate in writing a later date for the Closing, to allow additional time for the condition to be satisfied, if the condition can be satisfied and the other Party agrees in writing to the later date.

4.3. Final Termination Date. If all of the conditions precedent to the Closing set forth in Section 4 have not been satisfied or waived by the later of (a) the Closing Date or (b) such later date, if any, designated pursuant to Section 4.2(c) or determined in accordance with Section 12.7, then this Agreement shall terminate sixty (60) days after written notice from the Party seeking termination unless the specified condition shall have been satisfied or waived and Closing shall have occurred within such 60-day period.

4.4. Effect of Termination for Non-Satisfaction of Conditions Precedent to Closing. If this Agreement terminates or is terminated for non-satisfaction of the conditions precedent to the Closing and neither Party is in default under this Agreement, then all rights and obligations of the Parties under this Agreement shall terminate upon termination of this Agreement other than the obligation to cooperate in preparing, executing and recording such documents as may be necessary or desirable to reflect the termination of this Agreement in the real property records of Lincoln County, Oregon. If a Party is in default under this Agreement on the date this Agreement terminates or is terminated for non-satisfaction of the conditions precedent to Closing, then the rights and remedies accruing to the other Party under this Agreement as a result of such default shall survive termination of this Agreement.

5. CLOSING.

5.1. Manner of Closing.

5.1.1. The Closing of the purchase and sale of the Property will occur in an escrow to be administered by the Escrow Agent ("Escrow").

5.1.2. The Parties agree to provide the Escrow Agent with escrow instructions (the “Escrow Instructions”) consistent with the terms of this Agreement.

5.1.3. On the Closing Date, the Escrow Agent shall deliver or cause to be delivered the sums and documents pursuant to the Escrow Instructions. In the event that the Escrow Agent cannot, or refuses to, handle this transaction, the Parties shall appoint an escrow company mutually satisfactory to the Parties, which is licensed in the State of Oregon.

5.2. Closing Date.

5.2.1. Unless extended in accordance with Section 5.2.2, the Closing shall occur after satisfaction or waiver of the conditions set forth in Section 4.1, but in no event later than _____ (the “Closing Date”).

5.2.2. The Closing Date may not be extended without the consent of both Parties, unless extended pursuant to Section 4.2(c) or Section 12.7.

5.3. Conveyance by Deed. Subject to satisfaction of the Conditions Precedent to Closing set forth above, at the Closing Agency will convey the Property to Developer by a statutory warranty deed, substantially in the form attached hereto as Exhibit C (the “Deed”).

5.4. Documents to Be Deposited into Escrow by Agency. On or before the Closing Date, Agency shall deposit into Escrow all of the following:

5.4.1. A duly executed and acknowledged Deed.

5.4.2. A duly executed and acknowledged counterpart accepting an Easement to the benefit of the City of Newport to maintain and operate a public restroom on the Property.

5.4.3. An original certificate of non-foreign person duly executed by Agency and notarized.

5.4.4. Such documents as the Escrow Agent may require to establish the authority of Agency to complete the sale of the Property as contemplated by this Agreement, and to issue title insurance in the form required by Developer.

5.4.5. Such documents as the Escrow Agent may require to complete the sale of the Property as contemplated by this Agreement.

5.5. Documents and Sums to Be Deposited into Escrow by Developer. On or before the Closing Date, Developer shall deposit into Escrow such funds (by wire transfer) as are necessary to pay the Purchase Price, and Developer’s portion of the Closing costs and prorations as described in Section

5.6. Developer shall also deposit into Escrow the following:

5.5.1. A duly executed and acknowledged Easement to the benefit of the City of Newport to maintain and operate a public restroom on the Property.

5.5.2. Such documents as the Escrow Agent may require to complete the sale of the Property as contemplated by this Agreement.

5.6. Prorations and Costs.

5.6.1. Closing Costs. The costs for recording a Memorandum of this Agreement (as hereinafter defined), Easement, and the Deed shall be paid by Agency. The costs for recording any other documents required by Developer to be recorded will be paid by Developer. Each Party shall pay one-half (1/2) of any escrow fees charged by the Title Company (the "Escrow Agent"). The cost of Title Insurance shall be paid in accordance with Section 2.5. All other Closing costs, if any, shall be allocated in accordance with the customary practice in Lincoln County, Oregon.

5.6.2. Prorations of Taxes. All property taxes attributable to the year in which the Closing occurs shall be prorated and adjusted as of the Closing Date as an adjustment at the Closing (regardless of whether such taxes and special assessments are then due and payable or delinquent). Agency agrees that any taxes, assessments and encumbrances that will be a lien against the Property at the Closing, whether or not those charges would constitute a lien against the Property at settlement, shall be satisfied by Agency. If Agency shall fail to do so, Developer may pay any such tax, assessment, encumbrance or other charge and deduct an amount equal to any such payment from the Purchase Price of the Property. Regular real property taxes payable during the year in which the Closing occurs and any rents or income applicable to the Property shall be prorated as of the Closing Date. Developer shall pay any property taxes on the Property beginning on the day following the Closing.

5.6.3. Utilities. Developer is responsible for causing all meters for electricity, gas, water, sewer or other utility usage at the Property, if any to be read on the Closing Date, and Agency shall pay all charges for such utility charges that have accrued on or prior to the Closing Date. If the utility companies are unable or refuse to read the meters on the Closing Date, all charges for such utility charges to the extent unpaid shall be prorated and adjusted as of the Closing Date based on the most recent bills therefore.

5.6.4. Other Prorations and Costs. Except as otherwise provided herein, all other items to be prorated, including rents, operating expenses, revenues, and other income, if any, shall be prorated as of the Closing Date. For the purpose of calculating prorations, the Developer shall be deemed to be entitled to the Property and, therefore, entitled to the income and responsibility for the expenses for the entire day following the Closing Date. Agency shall pay only the annual payments due through the Closing Date for the Property's pro rata share of any special assessments that have been paid in annual installments. Developer shall assume liability for payment of any annual payments due after the Closing Date for any special assessments that have been paid in annual installments. Developer and the Agency shall each pay their own legal and professional fees of other consultants incurred by Developer and Agency, respectively.

6. INFRASTRUCTURE, UTILITIES AND LAND CONDITION

6.1. Site Preparation. As part of the Project, Agency will, at its own cost, remove existing buildings, structures, and paved surfaces and place the Property in a development ready condition in accordance with the Schedule of Performance.

6.2. Infrastructure Improvements. As part of the Project, Developer, at its own cost, will design, construct, fund and obtain permits for all on-site infrastructure required by the Newport Municipal Code to serve the Project.

6.3. Utility Service. As part of the Project, Developer shall install, connect, and upgrade new and existing utilities necessary to serve the Project. This includes the installation of a separate metered water service to the public restroom that is to be constructed on the Property.

6.4. Subsurface and Surface Conditions. Except as otherwise specifically set forth in this Agreement and in the Conveyance documents executed by Agency at the Closing, Agency makes no warranties or representations that the soil conditions, Environmental Conditions or any other conditions of the Property or structures thereon are suitable for any improvements, including the Project. Developer acknowledges that it has not relied on any verbal representations made by the Agency as to the soil conditions, Environmental Conditions or any other conditions of the Property. Developer acknowledges that it has had free access to Agency's records with respect to the condition of the Property, specifically including the Environmental Reports.

7. DEVELOPMENT

7.1. Project Financing. Developer will be responsible for obtaining from third parties all funds and financing necessary to acquire the Property and construct and operate the Project. The Parties anticipate that the Project financing will be structured generally as shown in the Project Budget attached hereto as Exhibit D. The Parties acknowledge and agree that the Project Budget is only a projection and that a number of factors may change this projection including interest rates, lender requirements, market shifts, and the soft and hard development costs.

7.2. Agency Review and Approval of Drawings.

7.2.1. Review and Approval. The Scope of Development is described in Exhibit E. Developer has prepared Drawings and submitted them to Agency for review and approval.

7.2.2. Changes in Approved Drawings. Developer shall submit to Agency for review any substantial changes to any previously approved Drawings. A substantial change shall mean any change that would have a material impact on the function, appearance or cost of the Project. Developer acknowledges that it may be required to secure separate City approval of such changes. Any separate City approvals shall be sought after Agency has approved the changes. Agency may assist Developer throughout any City review processes, but Agency does not represent or warrant that its assistance will guarantee approval.

7.2.3. Project Rendering. Developer will provide Agency with at least one electronic and one hardcopy color rendering of the Project prior to Closing.

7.3. Diligent Completion. Subject to the terms and conditions of this Agreement (including any Unavoidable Delay as defined in Section 12.7), Developer covenants to use commercially reasonable efforts complete the development of the Project in substantial conformance with the Drawings and in accordance with the Schedule of Performance attached hereto as Exhibit F (the "Schedule of Performance"). Subject to delays permitted in accordance with the terms of this Agreement, Developer shall use commercially reasonable efforts to complete development of the Project no later than the date for completion of construction set forth in the Schedule of Performance. Developer agrees to keep Agency informed of its progress with respect to development of the Project during construction, with periodic reports to be issued no less frequently than once a month until Agency issues the Certificate of Completion for the Project. Project development includes:

7.3.1. Entering into all necessary architectural and construction contracts;

7.3.2. Securing all necessary public entitlements and building permits;

7.3.3. Securing all financing necessary to complete the Project, consistent with the Project Budget.

7.4. (Provision Omitted)

7.5. Inspection and Property Access.

7.5.1. Before Closing. Before Closing, Agency will allow Developer and/or Developer's employees, agents and consultants to enter upon the Property in reasonable furtherance of the transaction contemplated in this Agreement pursuant to a written permit of entry.

7.5.2. After Closing. After Closing, during construction of the Project, and until the Certificate of Completion is issued, Developer's work shall, upon reasonable notice, be accessible at all reasonable times for inspection by representatives of Agency. Agency agrees not to interfere with the work occurring on the Property. In connection with any entry onto the Property after Closing, Agency agrees to: (i) coordinate access with Developer or Developer's contractor to reduce the risk of injury; and (ii) follow all reasonable safety rules of Developer or Developer's contractor.

7.6. Safety Matters and Indemnification. Developer shall:

7.6.1. Safety. Comply with all safety laws and take all reasonable safety measures necessary to protect its employees and Agency's employees, agents, contractors, subcontractors, licensees and invitees, their personal property, and improvements of each, from injury or damage caused by or resulting from the performance of its construction.

7.6.2. Indemnity from Liability Claims. Indemnify, defend (at Agency's request) and hold harmless Agency, and its successors and assigns, from and against all claims, costs, expenses, losses, damages and liabilities whatsoever arising from or in connection with the death of, or injury, loss or damage whatsoever caused to, any person or to the property of any person during the process of the construction work or the performance of Developer's other obligations under this Agreement, except to the extent: (a) caused by Agency or its employees, agents, contractors, subcontractors, licensees or invitees; or (b) caused by the gross negligence or willful misconduct of Agency or its employees, agents, contractors, subcontractors, licensees or invitees. The indemnity set forth in this Section 7.6.2 shall survive the issuance of the Certificate of Completion and any termination of this Agreement.

7.6.3. Indemnity from Liens. Indemnify, defend (at Agency's request) and hold harmless Agency, and its successors and assigns, from and against all claims, costs, expenses, losses, damages and liabilities whatsoever arising from or in connection with any mechanics', materialmen's, laborers' or other construction or statutory liens filed against any portion of the Property or the Project or arising from or related to construction on the Property or the Project performed by or at the request of Developer or Developer's contractors or agents. The indemnity set forth in this Section 7.6.3 shall survive the issuance of the Certificate of Completion and any termination of this Agreement.

7.7. Liens. If any statutory lien shall be filed prior to Agency's issuance of the Certificate of Completion against any portion of the Project by reason of labor, services or materials supplied to

or at the request of Developer or Developer's contractors or agents or in connection with any construction on the Project, Developer shall, within thirty (30) days after the filing thereof, take whatever action is necessary and proper (including posting a bond or a cash deposit and taking such further action as may be required by the Oregon Construction Lien Law), so that the Project shall thereafter be entirely free of the lien. Alternatively, Developer may elect to leave the lien of record and to contest its validity, amount or applicability by appropriate legal proceedings, but only if Developer shall, within the 30-day period following the filing of the lien, furnish an indemnity against such lien in an amount and form satisfactory to induce the title insurance company which insured title to the Property to insure over such lien or to reissue or update its existing policy, binder or commitment without showing any title exception by reason of such lien; provided, further, that in such event, (i) Developer shall indemnify and hold harmless Agency from all loss, damage, liability, expense or claim whatsoever (including attorneys' fees and other costs of defending against the foregoing) resulting from the assertion of any such lien, and (ii) in the event such legal proceedings shall be finally concluded (so that no further appeal may be taken) adversely to Developer, Developer shall within fifteen (15) days thereafter cause the lien to be discharged of record.

7.8. Compliance with Laws and Use Restrictions. Developer will comply with, or cause the Project to comply with, all laws, ordinances, statutes, rules, regulations, orders, injunctions, or decrees of any government agency or instrumentality applicable to Developer, the Project, or the operation thereof, including, without limitation:

7.8.1. All applicable health and safety, environmental, and zoning laws, and

7.8.2. All requirements or restrictions pertaining to the construction, use, occupancy or operation of the Project arising from the original source of any funds used by Developer to complete the Project.

7.9. Certificate of Completion.

7.9.1. When Developer is Entitled to Certificate of Completion. Upon substantial completion of the Project as described in this Section 7.9 and provided Developer is not in default under this Agreement after the lapse of any applicable notice and cure period, Agency will furnish Developer with a Certificate of Completion for the Project. The Project will be deemed to be substantially complete when:

i. Agency reasonably determines that the Project is complete according to the Drawings, except for punch-list items that do not materially affect the use of the Project for the purposes intended under this Agreement; and

ii. The City has issued a temporary or permanent Certificate(s) of Occupancy with respect to the Project; and

iii. Developer has, in all material respects, completed any other improvements required by the terms of this Agreement.

7.9.2. Form and Effect of the Certificate of Completion. A Certificate of Completion shall be substantially in the form of Exhibit G and in a form that can be recorded in the real property records of Lincoln County, Oregon. The Certificate of Completion shall provide for termination of obligations under this Agreement and limitation of remedies of Agency as expressly provided for in the Certificate of Completion. At Developer's request, the

Certificate of Completion shall state which terms and conditions of this Agreement are of no further force and effect.

7.9.3. Procedure Where Agency Refuses to Issue. If Agency refuses or fails to provide a Certificate of Completion in accordance with this Section 7.9, then Agency, within thirty (30) days after written request by Developer for such Certificate of Completion, shall provide Developer with a written statement indicating in detail in what respects Developer has failed to complete the Project in accordance with the provisions of this Agreement or is otherwise in default and what measures or acts Developer must take or perform to obtain such Certificate of Completion. Agency's failure to furnish Developer with such detailed written statement within such thirty (30) day period shall be deemed Agency's approval of Developer's request for the Certificate of Completion.

8. ENVIRONMENTAL CONDITION OF THE PROPERTY AND PARTIES' RESPONSIBILITIES

8.1. Environmental Site Assessments. Agency performed Phase I and Phase II Site Assessments prior to acquiring the property in 2015 and copies of those records have been provided to Developer. Developer may, at its expense, cause completion of a new Phase I Environmental Site Assessment of the Property in conformance with the ASTM E 1527-05 process in compliance with the United States Environmental Protection Agency All Appropriate Inquiries (40 CFR Part 312). If Developer elects to perform such an Assessment then a copy of such Phase I Environmental Site Assessment shall be provided to Agency, promptly after Developer's receipt thereof.

8.2. Indemnification. Developer shall be responsible for compliance with all Environmental Laws with respect to the Property, its business and the operation of the Project from and after Closing, including but not limited to compliance with all restrictions, limitations, conditions and obligations imposed by DEQ pursuant to a No Further Action Letter, Underground Storage Tank Closure letter or Easement and Equitable Servitude applicable to the Property, if any. In addition, Developer shall be responsible for all environmental remediation and abatement of Recognized Environmental Conditions and Unforeseen Environmental Conditions on the Property. Developer shall defend (at Agency's request), indemnify and hold harmless Agency, its successors and assigns, from and against all claims, costs, expenses, losses, damages, and liabilities, including, without limitation, reasonable legal, accounting, consulting, engineering and other expenses which may be imposed on or incurred by Agency, its successors or assigns, or asserted against Agency, its successors or assigns, by any other person or entity, including, without limitation, a governmental entity, arising out of or in connection with any Environmental Conditions, Recognized Environmental Conditions or Unforeseen Environmental Conditions on the Property arising out of events or activities occurring from and after the Closing. The indemnity set forth in this Section 8.2 shall survive the issuance of the Certificate of Occupancy and any termination of this Agreement.

8.3. Contribution. The foregoing indemnity does not limit any rights of contribution that the Parties may have against others under applicable law or agreement. The indemnity is intended only as an allocation of responsibility between the Parties.

9. ASSIGNMENT AND TRANSFER PROVISIONS

9.1. Restrictions on Transfer of the Property and Assignment of the Agreement. Except as provided in this Section 9.1 and in Section 9.2, Developer shall not partially or wholly

transfer Developer's interest in this Agreement without the prior written approval of the Agency, which may be withheld in the Agency's reasonable discretion.

9.2. Approved Transfers. Notwithstanding Section 9.1 above, and provided that Developer provides the Agency with copies of all agreements related to the transfer, the Agency hereby consents to an assignment of Developer's rights under this Agreement and interest in the Property (which interest will remain subject to the terms and conditions of this Agreement) to any entity in which the day-to-day operations are ultimately controlled, either directly or indirectly, by Developer or Developer's shareholders through ownership, voting or contractual management rights.

9.2.1. Any Mortgage, including any assignment of rights under this Agreement to any Mortgagee, as reasonably approved by Agency.

10. CONTINUING COVENANTS SURVIVING TERMINATION OF AGREEMENT OR COMPLETION OF CONSTRUCTION

10.1. Surviving Sections. The following Sections of this Agreement shall survive and remain in effect for the periods identified herein notwithstanding issuance of the Certificate of Completion: Section 2.4 (AS IS SALE), Section 7.6.2 (INDEMNITY FROM LIABILITY CLAIMS), Section 7.6.3 (INDEMNITY FROM LIENS), and Section 8.2 (INDEMNIFICATION).

11. MORTGAGEE PROTECTION PROVISIONS

11.1. Effect of Revesting on Mortgages. Any reversion and revesting of the Property or any portion thereof in Agency pursuant to this Agreement shall always be subordinate to, subject to and limited by, and shall not defeat, render invalid, or limit in any way, any Mortgage.

11.2. Mortgagee Not Obligated to Construct. Notwithstanding any of the provisions of the Agreement, except those that are covenants running with the Property, if any, a Mortgagee or its designee for purposes of acquiring title at foreclosure shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements in the Property or to guarantee such construction or completion; provided, however that nothing in this Agreement shall be deemed or construed to permit or authorize any such Mortgagee to devote the Property or any part thereof to any uses, or to construct any improvements thereon other than those uses or improvements provided or permitted in this Agreement.

11.3. Copy of Notice of Default to Mortgagee. If Agency delivers a notice or demand to Developer with respect to Developer's breach of this Agreement, Agency shall at the same time send a copy of such notice or demand to each Mortgagee approved by Agency, at the last address of such holder shown in the records of Agency. Failure of Agency to send a copy of such notice or demand to a Mortgagee shall not prevent or limit in any way Agency's rights and remedies under this Agreement or create any liability for Agency.

11.4. Mortgagee's Options to Cure Defaults. After Developer's default of this Agreement and if Developer fails to cure or remedy said default within the required time period, then each Mortgagee shall have sixty (60) days after passage of the latest date for Developer's cure or remedy of the default, to cure or remedy the default itself, if cure or

remedy thereof is permitted by this Agreement. If a Mortgagee does cure or remedy the default within such sixty (60) day period, the Mortgagee may add the cost thereof to the Mortgage debt and the lien of its Mortgage, if permitted by its loan documents. If the default is with respect to construction of the Project, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the improvements, provided that the Mortgagee notifies Agency in writing of its intention to complete the Project according to the approved Drawings. Any Mortgagee who properly completes the Project shall be entitled to issuance of a Certificate of Completion, upon written request made to Agency following the procedures set forth in Section 7.9 above.

11.5. Amendments Requested by Mortgagee. Agency shall execute amendments to this Agreement or separate agreements to the extent reasonably requested by a Mortgagee proposing to make a loan to Developer secured by a security interest in all or any part of the Property or the Project, provided that such proposed amendments or other agreements do not materially and adversely affect the rights of Agency or its interest in the Property.

12. DEFAULT AND REMEDIES

12.1. Default and Cure.

12.1.1. Default by Developer.

(a) Developer shall be in default under this Agreement if Developer breaches a material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within sixty (60) days after Developer receives written notice from Agency specifying the breach or such longer period as may be necessary to cure such default so long as Developer is diligently pursuing such cure to completion.

(b) Developer shall also be in default under this Agreement if Developer makes an assignment for the benefit of creditors, or is adjudicated a bankrupt, or has a receiver, trustee or creditor's committee appointed over it that is not removed within sixty (60) days after appointment.

12.1.2. Default by Agency. Agency shall be in default under this Agreement if Agency breaches a material provision of this Agreement, whether by action or inaction, and such breach continues and is not remedied within sixty (60) days after Agency receives written notice from Developer specifying the breach. In the case of a breach that cannot with due diligence be cured within a period of sixty (60) days, Agency shall be in default under this Agreement if Agency does not commence the cure of the breach within sixty (60) days after Agency receives written notice from Developer and thereafter diligently pursue such cure to completion.

12.2. Agency's Pre-Conveyance Remedies. If a Developer default (as described in Section 12.1.1) occurs before the Property is conveyed to Developer, Agency may, as its remedy, terminate this Agreement by written notice to Developer. If Agency terminates this Agreement as provided in this Section 12.2, then Developer shall deliver to Agency, without any representation or warranty whatsoever, within thirty (30) days after termination, copies of all Project market research, design documents, engineering documents, proformas and financial projections prepared for Developer by unrelated third

parties, and which Developer is authorized to release. Agency may use any of the foregoing documents in any manner that Agency deems appropriate with the consent of any party having approval rights thereunder. Agency shall pay no compensation to Developer for the foregoing Project documents.

12.3. Agency's Post-Conveyance Remedies. If a Developer default (as described in Section 12.1.1) after the Property is conveyed to Developer, including but not limited to Developer's failure to complete the Project as required by Section 7.3, then Agency shall have the following remedies:

12.3.1. Subject to the Mortgagee protections specified in Section 11, Agency shall have the right to purchase the Property for the Purchase Price and upon the payment of the Purchase Price to Developer, re-enter and take possession of the Property and to terminate this Agreement and revert in Agency the Property conveyed by the Deed, terminate Developer's right to develop the Project, and resell the Property. The Conveyance of the Property to Developer shall be made upon, and the Deed shall provide for, a condition subsequent to the effect that, in the event of a Developer default (as described in Section 12.1.1), Agency, at its option, may, upon 30 days written notice of termination to Developer and the Escrow Agent (which notice and cure period is in addition to the notice and cure period under Section 12.1.1), declare a termination of Developer's rights, title, and interest in the Property. After delivery of such notice of termination, and in the event Developer fails to remedy, end or abrogate such default within the 30-day period in the manner stated in the notice of termination, and subject to the payment of the Purchase Price to Developer, all the title and rights and interest in the Property conveyed to Developer by the Deed, or to any successors or permitted assigns of Developer, shall be reconveyed to Agency by quitclaim deed and pursuant to the escrow instructions, each as set forth in Exhibit H. Any delay by Agency in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section 12.3 shall not operate as a waiver of such rights or to deprive it of or limit such rights in any way (it being the intent of this provision that Agency should not be constrained because of concepts of waiver, laches or estoppel so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this section or otherwise to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by Agency with respect to any specific default by the Developer be considered or treated as a waiver of the rights of Agency with respect to any other defaults by the Developer or with respect to any particular default except to the extent specifically waived.

12.3.2. Developer shall deliver to Agency within thirty (30) days after reconveyance of the Property, without any representation or warranty whatsoever, copies of all Project market research, design documents, engineering documents, proformas and financial projections prepared for Developer by unrelated third parties, and which Developer is authorized to release. Agency may use any of the foregoing documents in any manner that Agency deems appropriate with the consent of any party having approval rights thereunder. Agency shall pay no compensation to Developer for the foregoing Project documents.

12.4. Developer's Pre-Conveyance Remedies. If an Agency default (as described in Section 12.1.2) occurs before Agency conveys the Property to Developer, Developer may,

at its option: (i) terminate this Agreement by written notice to Agency without waiving any cause of action Developer may have against Agency, (ii) specifically enforce the obligations of Agency under this Agreement, or (iii) seek monetary damages against Agency. Notwithstanding the preceding sentence, Developer shall not seek incidental, indirect, consequential, exemplary, statutory or other special damages or damages for lost opportunity or profits from Agency in connection with Agency's default.

12.5. Developer's Post-Conveyance Remedies. If an Agency default (as described in Section 12.1.2) occurs after Agency conveys the Property to Developer, Developer may specifically enforce the obligations of Agency under this Agreement, or seek monetary damages against Agency. Notwithstanding the preceding sentence, Developer shall not seek incidental, indirect, consequential, exemplary, statutory or other special damages or damages for lost opportunity or profits from Agency in connection with Agency's default.

12.6. Nonexclusive Remedies. The rights and remedies provided by this Agreement shall not be deemed exclusive, except where otherwise indicated, and shall be in addition to any and all rights and remedies otherwise available at law or in equity. The exercise by either Party of one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or of any of its remedies for any other default by the other Party, including, without limitation, the right to compel specific performance. Any limitation of remedies set forth herein shall not limit or affect the obligations of a Party under any contractual indemnities set forth herein.

12.7. Unavoidable Delay.

12.7.1. Neither a Party nor a Party's successor in interest shall be considered in breach of or in default with respect to any obligation under this Agreement if the delay in performance of such obligation ("Unavoidable Delay") is a result of conditions unforeseeable, beyond the Party's reasonable control, and without the Party's fault or negligence, including, events such as natural disasters (fire, flood, earthquake, storm, hurricane, or unusually severe weather), war, invasion, hostilities, terrorist activities, epidemic, quarantine, blockage, embargo, labor dispute, strike, malicious mischief, or explosion.

12.7.2. A Party asserting an Unavoidable Delay as an excuse for failure to perform the Party's obligation must, within thirty (30) days after the Party becomes aware of the causes of any such Unavoidable Delay, notify the other Party in writing of the cause or causes of the delay and estimated time of correction. The Party must thereafter do everything in its power to resume performance of the delayed obligation.

12.7.3. Unavoidable Delay will extend the time or times for performance of the Party's obligation for the period of the Unavoidable Delay. In no event will the time or times for performance of an obligation be extended for more than 180 days in the aggregate.

13. MISCELLANEOUS PROVISIONS

13.1. Notice. Any notice or communication under this Agreement by either Party to the other shall be deemed given and delivered on the earlier of actual delivery or refusal to accept delivery thereof if sent by one of the following means with all applicable delivery

and postage charges prepaid: (a) registered or certified U.S. mail, postage prepaid, return receipt requested; (b) personal delivery; (c) nationally recognized overnight courier service (e.g., Federal Express); or (d) if simultaneously delivered by another means allowed hereunder, email, with receipt of confirmation that such transmission has been received.

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

With a copy to:

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

City of Newport
Community Development Department
Attention: Derrick Tokos
169 SW Coast Highway
Newport, OR 97365
Email: d.tokos@newportoregon.gov

with a copy to:

David Allen, Attorney
City of Newport
169 SW Coast Highway
Newport, OR 97365
Email: d.allen@newportoregon.gov

A Party may change its address for notices by written notice given to the other Party in accordance with this Section 13.1. Notices may be given by counsel to a Party on behalf of such Party.

13.2. Discrimination. Developer, for itself and its successor and assigns, agrees that, during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, sexual orientation or national origin.

13.3. Merger. None of the provisions of this Agreement are intended to or shall be merged by reason of any deed transferring title to the Property from Agency to Developer or any successor in interest, and any such deed shall not be deemed to affect or impair the provisions and covenants of this Agreement, but shall be deemed made pursuant to this

Agreement.

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

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

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

13.7. Governing Law, Venue, Consent to Jurisdiction. This Agreement shall be governed by Oregon law, without regard to principles of conflicts of law. Any action or suit to enforce or construe any provision of this Agreement by any Party must be brought in the Circuit Court of the State of Oregon for Lincoln 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 Agreement, hereby consents to the *in personam* jurisdiction of said courts.

13.8. 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.

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

13.10. Legal Purpose. Developer agrees to use the Project solely for lawful purposes.

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

13.12. Entire Agreement. This Agreement and its exhibits are the entire agreement between the Parties with regard to the disposition and development of the Property. There is no other oral or written agreement between the Parties with regard to this subject matter. There are no oral or written representations or warranties made by either Party, implied or express, other than those contained in this Agreement.

13.13. Amendments and Modifications. Any modifications to this Agreement must be made in writing and executed by all Parties, with the approval of Agency, if required. Notwithstanding this general requirement, the Agency's Executive Director may approve minor modifications to this Agreement without Agency approval. Any modifications to this Agreement made without the approval of Agency must include an acknowledgement by Agency's legal counsel that such approval is not necessary.

13.14. Successors and Assigns. Subject to the provisions of Section 9, the benefits conferred by this Agreement, and the obligations assumed thereunder, shall inure to the benefit of and bind the successors and permitted assigns of the Parties.

13.15. No Partnership. Nothing contained in this Agreement or any acts of the Parties hereby shall be deemed or construed by the Parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture, or any association between any of the Parties other than that of independent contracting parties.

13.17. Non-waiver of Government Rights. Subject to the terms and conditions of this Agreement, by making this Agreement and delivery of the Deed, Agency is specifically not obligating itself, the City, 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, except as expressly set forth herein.

13.18. Attorneys' Fees. If a suit, action, arbitration, or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing or non-defaulting Party shall be entitled to recover from the losing or defaulting Party its reasonable attorneys', paralegals', accountants', and other experts' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge at trial or on any appeal in addition to all other amounts provided by law. This provision shall cover costs and attorney fees related to or with respect to proceedings in U.S. Bankruptcy Court, including those related to issues unique to bankruptcy law.

13.19. Office of Foreign Asset Control. Agency and Developer represent and warrant to one another that it is not and shall not become a person or entity with whom the other Party is restricted from doing business under any current or future regulations of the Office of Foreign Asset Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated and Blocked Persons list) or under any current or future statute, executive order (including, but not limited to, the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transaction or be otherwise associated with such persons or entities.

13.20. Approval by Agency Executive Director. Except as provided for elsewhere in this Agreement, whenever consent or approval by Agency is required under the terms of this Agreement, all such consents or approvals shall be given in writing from the Executive Director of Agency or his/her designee.

13.21. Time of Essence. Time is of the essence of this Agreement.

13.22. No Third-Party Beneficiary Rights. No person not a party to this Agreement is an intended beneficiary of this Agreement, and no person not a party to this Agreement shall

have any right to enforce any term of this Agreement.

13.23. Recording of Memorandum of Agreement. Agency will record a memorandum of this Agreement (“Memorandum of Agreement”) within fourteen (14) days after the Effective Date. The form of the Memorandum of Agreement is attached as Exhibit I to this Agreement. When Agency issues to Developer a Certificate of Completion or if the Agreement is terminated, the Parties shall cooperate to promptly record an Amended Memorandum of Agreement to reflect the surviving covenants of this Agreement.

13.24. Incorporation. The exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

14. Statutory Disclaimer ORS 93.040(2). 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.

BUYER: _____ _____ _____ By: Its:	SELLER: Newport Urban Renewal Agency, an Urban Renewal Agency, organized and existing under ORS Chapter 457 _____ By: Its:
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EXHIBITS

- Exhibit A. Glossary of Terms
- Exhibit B. Description of the Property
- Exhibit C. Form of Deed
- Exhibit D. Project Budget
- Exhibit E. Scope of Development
- Exhibit F. Schedule of Performance
- Exhibit G. Form of Certificate of Completion
- Exhibit H. Form of Quitclaim Deeds and Escrow Instructions
- Exhibit I. Form of Memorandum of Agreement

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EXHIBIT A
GLOSSARY OF TERMS

The following words and phrases have the designated meanings in this Agreement:

1. **“City”** means the municipal corporation of the City of Newport, Oregon and its constituent departments, except Agency.
2. **“Closing”** means the transfer of any portion of the Property to Developer by Agency by recording of the Deed and handling of all other necessary documentation by the Escrow Agent.
3. **“Construction Drawings and Technical Specifications”** means documents, based upon the Design Development Drawings, that set forth in detail the requirements for construction of the Project pursuant to the terms of this Agreement, approved by the City of Newport. Construction Drawings and Technical Specifications shall include drawings and specifications that establish in detail the quality levels of materials and systems required for the Project.
4. **“Conveyance”** means the transfer of fee simple title to any portion of the Property by Agency to Developer.
5. **“DEQ”** means the Oregon Department of Environmental Quality.
6. **“Developer’s Proposal”** means that certain proposal made by _____, submitted to Agency on _____, as amended.
7. **“Environmental Conditions”** means the physical condition of the Property as measured by the standards of the Environmental Laws. Environmental Conditions do not include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.
8. **“Environmental Reports”** means reports of investigations performed as part of environmental due diligence, which may include Phase I, Phase 2 and Hazardous Building Site Assessments and reports, documents or documentation of Recognized Environmental Conditions that Agency has completed or Agency has in its possession, completed by others.
9. **“Environmental Laws”** means all federal, state and local laws, ordinances, rules and regulations relating to the protection or regulation of the environment that apply to the Property or the Project, including without limitation, Chapter 466 of the Oregon Revised Statutes, Chapter 341 of the Oregon Administrative Rules, RCRA (as defined in the definition of Hazardous Substances, below), CERCLA (defined in the definition of Hazardous Substances, below), the Safe Drinking Water Act, the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act.
10. **“General Contractor”** means any contractor as Developer may elect consistent with this Agreement.
11. **“Hazardous Substances”** means any pollutant, dangerous substance, toxic substance, asbestos, petroleum, petroleum product, hazardous waste, hazardous materials or hazardous substance as defined

in or regulated by Chapter 466 of the Oregon Revised Statutes, the Resource Conservation Recovery Act, as amended, 42 USC Section 6901, et seq. (“RCRA”), the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 USC Section 9601, et seq. (“CERCLA”), or any other Environmental Law.

12. “Infrastructure” means streets, sidewalks, alleys, and driveway approaches, connections to garages, planting street trees and grass in planting strips, stormwater mitigation, street and parking lot lighting, construction and connection of the Project to abutting potable water and sewer and storm sewer mains, connecting the Project to gas and electric and other necessary utility services, and all permitting for any of the above as further described in the Scope of Development.

13. “Mortgage” means a mortgage, deed of trust or master lease against the Property (or any portion thereof) to finance the Project.

14. “Mortgagee” means the holder of any Mortgage, including a master lease and trust deed, together with any successor or assignee of such holder. The term “Mortgagee” shall include any Mortgagee as owner of the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof, or any insurer or guarantor of any obligation or condition secured by a Mortgage but shall not include (a) any other person or entity who thereafter obtains title to the Property or such part from or through a Mortgagee or (b) any other purchaser at foreclosure sale.

15. “Notice” means any summons, citation, order, claim, litigation, investigation, proceeding, judgment, letter or other communication, written or oral, issued by the Oregon Department of Environmental Quality (“DEQ”), the United States Environmental Protection Agency, Agency, or other federal, state or local authority or any other government having jurisdiction with respect to the Property.

16. “Agency’s Knowledge” means the actual current knowledge of the Agency Project Manager, without any duty of inquiry or investigation.

17. “Project Budget” means the updated and revised estimated sources and uses of funds, cash flow submitted by Developer to Agency prior to Closing as further described in this Agreement and set forth in Exhibit D.

18. “Recognized Environmental Conditions” means the presence or likely presence of a Hazardous Substance on the Property under conditions that indicate an existing Release, a past Release, or a material threat of a Release of a Hazardous Substance into structures on the Property or into the ground, ground water, or surface water of the Property, whether or not the Release is in compliance with applicable law. Recognized Environmental Conditions do not include de minimis conditions that generally do not present a threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies.

19. “Release” means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, disposing or dumping.

20. “Schedule of Performance” means the document describing the schedule by which construction and development of the Project will occur, attached hereto as Exhibit F.

21. **“Scope of Development”** means the description of the improvements to be built comprising the Project, attached hereto as Exhibit E.

22. **“Title Company”** means _____ Title and Escrow with offices located at _____.

23. **“Unforeseen Environmental Conditions”** means the presence of a Hazardous Substance on the Property that is not identified in the Environmental Due Diligence Reports and that constitutes a Recognized Environmental Condition that, pursuant to Environmental Laws, will require remediation or abatement using means and methods that are prescribed by the Oregon Department of Environmental Quality.

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EXHIBIT B
LEGAL DESCRIPTION

PARCEL I:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101; thence East along said North line of Lot 2, 170.1 feet; thence South 3°18' West 299 feet, more or less, to the South line of said Lot 2; thence West on the South line of Lot 2 to the East line of U.S. Highway 101; thence Northerly along said East line of Highway 101 to the place of beginning.

PARCEL II:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101 as now located; thence East along the said North line of Lot 2, 170.1 feet to the true point of beginning; thence continuing East along said North line of Lot 2, 261.9 feet to the West line of Ferry Slip Road; thence Southwesterly along the West right-of-way line of said Ferry Slip Road to the intersection of the same and the South line of Lot 2, Block J, HARBORTON; thence West along the South line of Lot 2 to a point that is South 3° 18' West from the true point of beginning; thence North 3° 18' East 299 feet, more or less, to the true point of beginning.

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EXHIBIT C
STATUTORY DEED FORM

**Until a change is requested,
All tax statements shall be sent
To the following address:**

After recording return to:

STATUTORY WARRANTY DEED

Newport Urban Renewal Agency, an urban renewal agency, organized and existing under ORS Chapter 457 (Grantor) conveys and warrants to _____, a _____ in the State of Oregon (Grantee), the following described real property, free of encumbrances except as specifically set forth herein:

PARCEL I:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101; thence East along said North line of Lot 2, 170.1 feet; thence South 3° 18' West 299 feet, more or less, to the South line of said Lot 2; thence West on the South line of Lot 2 to the East line of U.S. Highway 101; thence Northerly along said East line of Highway 101 to the place of beginning.

PARCEL II:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101 as now located; thence East along the said North line of Lot 2, 170.1 feet to the true point of beginning; thence continuing East along said North line of Lot 2, 261.9 feet to the West line of Ferry Slip Road; thence Southwesterly along the West right-of-way line of said Ferry Slip Road to the intersection of the same and the South line of Lot 2, Block J, HARBORTON; thence West along the South line of Lot 2 to a point that is South 3° 18' West from the true point of beginning; thence North 3° 18' East 299 feet, more or less, to the true point of beginning.

Property is free from encumbrances, EXCEPT the following: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is \$_____.

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: _____, 20____.

GRANTOR:

Title: Executive Director
Newport Urban Renewal Agency

STATE OF OREGON)
) ss.
County of Lincoln)

This instrument was acknowledged before me on _____, 20____, by _____ as Executive Director of the Newport Urban Renewal Agency (Grantor).

Notary Public for Oregon

EXHIBIT D
PROJECT BUDGET

(Insert Probable Cost of Construction Estimate)

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EXHIBIT E
SCOPE OF DEVELOPMENT

Project will consist of...

(Insert Concept Drawing Illustrating Scope of Development)

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EXHIBIT F
SCHEDULE OF PERFORMANCE

Action	-	Target Date
Parties Execute Development and Disposition Agreement	-	____, ____
Agency Removes Structures and Prepares Site for Development	-	____, ____
Developer Prepared Drawings Approved by Agency	-	____, ____
Developer Obtains Any Required Land Use Approvals	-	____, ____
Building Permits Ready to Issue	-	____, ____
Construction Commenced	-	____, ____
Certification of Completion Issued to Developer	-	____, ____

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EXHIBIT G
FORM OF CERTIFICATE OF COMPLETION

After recording return to:

CERTIFICATE OF COMPLETION

Newport Urban Renewal Agency, an urban renewal agency, organized and existing under ORS Chapter 457 (“Agency”), hereby certifies that _____, a _____ in the State of Oregon (“Developer”) has satisfactorily completed construction of the Project as described in the Disposition and Development Agreement, dated _____, 20____, including subsequent amendments, of which a memorandum was recorded in the Records of Lincoln County, Oregon as Document No. _____, on _____, 20____, (which together are herein called the “DDA”), encompassing the property legally described in Exhibit A.

Capitalized terms used herein without definition shall have the meaning ascribed to them in the Amended and Restated DDA.

Pursuant to Section 7.9 of the DDA, Agency hereby certifies that, without limitation:

- (i) the construction of all buildings in the Project are completed to the extent set forth in the Final Construction Plans and Specifications previously approved by Agency;
- (ii) the City of Newport has issued its Certificate of Occupancy with respect to the all such buildings in the Project; and
- (iii) any other improvements required by the terms of the DDA have been completed at the time of the Project is complete have been completed in all material respects.

This Certificate of Completion is and shall be a conclusive determination of the satisfaction of all of the agreements, covenants and conditions contained in the DDA with respect to the obligations of Developer, its successors and assigns, as to the construction of the Project, and such obligations are hereby terminated, except for surviving provisions listed in Section 10.1 of the DDA. Any party acquiring or leasing any portion of the Project shall not (because of such purchase or lease) have any obligation under the DDA with respect to the construction of the Project.

IN WITNESS WHEREOF, Agency has caused this instrument to be executed this ____ day of _____, 20____.

NEWPORT URBAN RENEWAL AGENCY

By: _____
_____, Executive Director

STATE OF OREGON)

County of Lincoln) ss.
)

This instrument was acknowledged before me this ____ day of ____, 20__, by _____, as the Executive Director of the Newport Urban Renewal Agency.

Dated this day of ____, 20__.

NOTARY PUBLIC FOR OREGON
My commission Expires: _____

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EXHIBIT A

PARCEL I:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101; thence East along said North line of Lot 2, 170.1 feet; thence South 3°18' West 299 feet, more or less, to the South line of said Lot 2; thence West on the South line of Lot 2 to the East line of U.S. Highway 101; thence Northerly along said East line of Highway 101 to the place of beginning.

PARCEL II:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101 as now located; thence East along the said North line of Lot 2, 170.1 feet to the true point of beginning; thence continuing East along said North line of Lot 2, 261.9 feet to the West line of Ferry Slip Road; thence Southwesterly along the West right-of-way line of said Ferry Slip Road to the intersection of the same and the South line of Lot 2, Block J, HARBORTON; thence West along the South line of Lot 2 to a point that is South 3° 18' West from the true point of beginning; thence North 3° 18' East 299 feet, more or less, to the true point of beginning.

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EXHIBIT H
FORM OF QUIT CLAIM DEED AND ESCROW INSTRUCTIONS

After recording return to
and send tax statements to:

City of Newport
169 SW Coast Hwy
Newport, OR 97365
Attn: City Recorder

For a valuable consideration, receipt of which is hereby acknowledged by _____, a _____ in the State of Oregon ("Grantor"), does hereby demise, release and quitclaim to Newport Urban Renewal Agency, an urban renewal agency, organized and existing under ORS Chapter 457, ("Grantee"), all right, title and interest in and to the following described real property, with the tenements, hereditaments and appurtenances, situated in the County of Lincoln and State of Oregon, to wit:

SEE ATTACHED EXHIBIT A

To have and to hold the same unto the said Grantee and Grantee's successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ _____.

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.

IN WITNESS WHEREOF, Grantor has executed this instrument this ___ day of _____, 20__.

By: _____
Title: _____

EXHIBIT A

PARCEL I:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101; thence East along said North line of Lot 2, 170.1 feet; thence South 3°18' West 299 feet, more or less, to the South line of said Lot 2; thence West on the South line of Lot 2 to the East line of U.S. Highway 101; thence Northerly along said East line of Highway 101 to the place of beginning.

PARCEL II:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101 as now located; thence East along the said North line of Lot 2, 170.1 feet to the true point of beginning; thence continuing East along said North line of Lot 2, 261.9 feet to the West line of Ferry Slip Road; thence Southwesterly along the West right-of-way line of said Ferry Slip Road to the intersection of the same and the South line of Lot 2, Block J, HARBORTON; thence West along the South line of Lot 2 to a point that is South 3° 18' West from the true point of beginning; thence North 3° 18' East 299 feet, more or less, to the true point of beginning.

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FORM OF ESCROW INSTRUCTIONS FOR QUITCLAIM DEED

(insert title company)

Attention: Escrow Agent

Re: Escrow No. _____

_____, a _____ in the State of Oregon (“Developer”), has entered into that certain Agreement for Disposition and Development of Property (“DDA”) with the Newport Urban Renewal Agency, an urban renewal agency, organized and existing under ORS Chapter 457, dated as of _____, 20__, a Memorandum of which was recorded _____, 20__ as Document No. _____, Records of Lincoln County, Oregon, whereby Agency will convey to the Developer or its assignees certain real property (the “Property”) in the South Beach Urban Renewal Area. The Property is the subject of this escrow and is described in the accompanying quitclaim deed (“Quitclaim Deed”).

Section 12.3.1 of the DDA provides that, under certain circumstances, Agency is entitled to reconveyance of the Property pursuant to a Quitclaim Deed and Escrow Instructions. This document constitutes those escrow instructions and is for the purpose of irrevocably instructing you as to the disposition of the accompanying Quitclaim Deed.

In the event that you receive from Agency a notice signed by the Agency's Director certifying that a copy of said notice has been delivered concurrently to Developer and certifying that a termination in favor of Agency of the title, and of all of the rights and interest of Developer in the Property has occurred, and that rights to the Property described in the Quitclaim Deed have revested in Agency pursuant to the DDA (“Notice of Termination”), you shall at the end of thirty (30) days after receipt of said instructions record the subject Quitclaim Deed unless within said thirty (30) day period, you are notified by Agency that Agency has withdrawn the Notice of Termination, or unless you are prohibited from recording the Quitclaim Deed(s) by temporary restraining order, preliminary injunction, or other court order.

In the event that you receive a copy of a Certificate of Completion issued by Agency with respect to the Project (either an original or one certified by Developer as being a duplicate of the original), you will forthwith return the Quitclaim Deed to Developer. In the event that there still remains in your possession an undisposed Quitclaim Deed by [insert date eighteen (18) months after DDA scheduled date for completion of improvements] you shall contact Agency and Developer as to its disposition.

These instructions may not be withdrawn or in any way amended, modified or waived without the prior written consent of both of the parties hereto.

Please indicate your acceptance of and agreement to carry out these instructions as indicated below.

Very truly yours,

_____, a _____ in the State of Oregon

By: _____

Name/Title: _____

Very truly yours,

Newport Urban Renewal Agency,
an urban renewal agency, organized
and existing under ORS Chapter 457

By: _____

_____, Executive Director

Accepted and agreed to this ___ day of _____, 20__

(insert name of title company).

By _____

Name/Title: _____

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EXHIBIT I
FORM OF ESCROW INSTRUCTIONS FOR QUITCLAIM DEED

After recording return to:

City of Newport
169 SW Coast Hwy
Newport, OR 97365
Attn: City Recorder

Memorandum of Agreement

THIS MEMORANDUM OF AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY (“Memorandum”) shall serve as notice to all persons that Newport Urban Renewal Agency (“Agency”), an urban renewal agency, organized and existing under ORS Chapter 457, with an address of 169 SW Coast Hwy, Newport, Oregon 97365, and _____ (“Developer”), a _____ in the State of Oregon, with an address of _____, entered into an Agreement for Disposition and Development of Property in the South Beach Urban Renewal Area, dated as of _____, 20__ (“Agreement”) relating to the real property located in Lincoln County, Oregon, as more particularly described in Exhibit A attached hereto (the “Property”).

Among other things, the Agreement requires Agency to convey the Property to Developer upon the satisfaction of certain conditions precedent, and requires Developer to construct and complete certain infrastructure and project improvements on the Property, all as more particularly set forth in the Agreement. The Agency and Developer declare and agree that the terms of the Agreement serve as covenants running with the land and shall pass to and be binding on Developer’s successors in title, including, without limitation, any mortgagee, purchaser, grantee, or lessee of any portion of the Property and any other person or entity having any right, title, or interest in the Property and upon the respective heirs, executors, administrators, devisees, designees, successors, and assigns of any Mortgagee, purchaser, grantee, or lessee of any portion of the Property and any other person or entity having any right, title, or interest in the Property.

After a Certificate of Completion is recorded as to the Project, Agency shall thereafter have, or be entitled to exercise, no rights or remedies or controls that it may otherwise have been entitled to exercise under the Agreement with respect to the construction of the Project, or as a result of a default in or breach of any provisions of the Agreement by Developer, or by any successors in interest or assigns of Developer, except for those surviving sections described in the Certificate of Completion, if any.

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

(Insert Developer Name and Legal Entity)

By: _____

Its: _____

STATE OF OREGON)

County Lincoln) ss.
)

The foregoing instrument was acknowledged before me this ____ day of ____, 20__ by _____
as the _____ of _____, a _____ in the State of Oregon.

Notary Public for Oregon
My commission expires: _____

Newport Urban Renewal Agency,
an urban renewal agency, organized
and existing under ORS Chapter 457

By: _____
_____, Executive Director

STATE OF OREGON)
) ss.
County Lincoln)

The foregoing instrument was acknowledged before me this ____ day of ____, 20__ by _____ as the
Executive Director of the Newport Urban Renewal Agency, an urban renewal agency, organized
and existing under ORS Chapter 457.

Notary Public for Oregon
My commission expires: _____

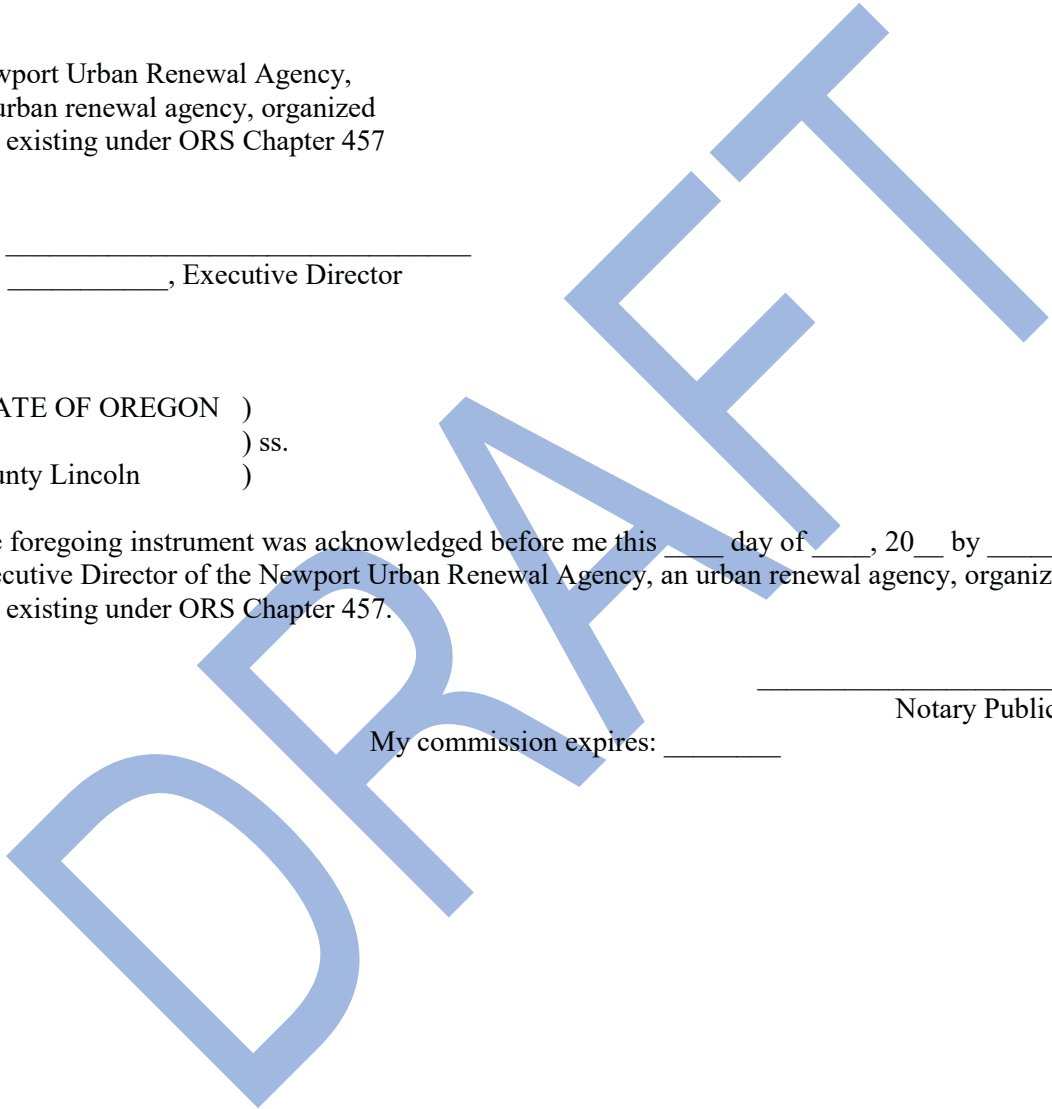


EXHIBIT A

PARCEL I:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101; thence East along said North line of Lot 2, 170.1 feet; thence South 3°18' West 299 feet, more or less, to the South line of said Lot 2; thence West on the South line of Lot 2 to the East line of U.S. Highway 101; thence Northerly along said East line of Highway 101 to the place of beginning.

PARCEL II:

Beginning at a point on the North line of Lot 2, Block J, HARBORTON, in Lincoln County, Oregon, which point is the intersection of the North line of said Lot 2 and the East line of U.S. Highway 101 as now located; thence East along the said North line of Lot 2, 170.1 feet to the true point of beginning; thence continuing East along said North line of Lot 2, 261.9 feet to the West line of Ferry Slip Road; thence Southwesterly along the West right-of-way line of said Ferry Slip Road to the intersection of the same and the South line of Lot 2, Block J, HARBORTON; thence West along the South line of Lot 2 to a point that is South 3° 18' West from the true point of beginning; thence North 3° 18' East 299 feet, more or less, to the true point of beginning.

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