



DRAFT

January __, 2020

Via Email to: eric.holmes@cityofvancouver.us and chad.eiken@cityofvancouver.us

Eric Holmes
City Manager
City of Vancouver
415 West 6th Street
P.O. Box 1995
Vancouver, WA 98668

Chad Eiken
Director, Community and Economic Development
City of Vancouver
415 West 6th Street
P.O. Box 1995
Vancouver, WA 98668

Re: Waiver of Feasibility on Block 10

Dear Eric and Chad,

Reference is made to the Land Disposition and Development Agreement (Block 10, Vancouver, Washington) dated as of October 25, 2019 between the City of Vancouver and Holland Acquisition Co., LLC for the ground lease and development of the real property commonly known as Block 10 in Vancouver, Washington (the “DDA”). Capitalized terms used but not defined in this letter have the meanings given to such terms in the DDA.

We are close to having a signed letter of intent with an equity investor. Holland and our investor have two concerns that are inconsistent with the current schedule:

- Our environmental consultant has discovered previously unknown petroleum contamination and provided a conservative estimate of \$220,000 to remediate the contamination. Remediation may also add some time to our construction schedule. We acknowledge that under the Ground Lease the Tenant will be responsible for remediation. Our concern is that we do not know the full extent of the contamination or cost/delay associated with remediation. We need to conduct further due diligence, and possibly additional soil borings, to determine if the contamination extends deeper than the depth of the borings or has spread laterally through a plume. The results of that due diligence could have several adverse impacts, including loss of our equity partner, inability to obtain construction financing and increases in the cost of construction and the construction schedule. We simply need more time to evaluate this problem and determine its impact. If we waive feasibility, we are prepared to risk the \$250,000 deposit

on the outcome of this issue, provided the cost estimate does not exceed \$220,000. However, today we do not have sufficient confidence that we will be able to both complete the additional due diligence, understand the impacts and get our investor and lender on board to close by March 31.

- Even without the potential added cost of delay of the remediation, it is not clear that our investor will be in a position to close by March 31. This investor typically wants 45 days to conduct its own due diligence and gain approval from its investment committee. We still cannot provide the investors with assurance on the parking arrangement or on the cost of the overhang rent. That uncertainty, combined with the environmental issues, may delay when the investor will start its due diligence in earnest.

- The investor has told us several times that it needs an option to purchase the land at the end of the 10th year of the Ground Lease.

We are prepared to waive due diligence ahead of the January 27, 2020 Due Diligence Expiration Date, subject to your confirmation that City Staff will recommend to the Vancouver City Council approval of each of the following items:

1. An extension of the outside Closing Date to May 29, 2020.
2. We understand that a City committee is working to establish overhang rent. With respect to Block 10, overhang rent per square foot of sidewalk must be set at a level that does not exceed 65% of the base rent per square foot under the Ground Lease. In this calculation, base rent per square foot of sidewalk will take into account multiple rent charges that may be incurred due to the overlap of overhangs. We need this assurance so the investor will have confidence in our pro forma operating projections.
3. The grant of an option in favor of the Tenant to purchase the land at fair market value at any time during the 10th and 11th years of the Ground Lease. Additionally, if the option is exercised Tenant will pay an additional amount (if any) that provided to the City total rent payments equal to 5% per year on the base value of \$3,300,000 (\$165,000 per year). For example, if the option closes on the 11th anniversary of the Closing, Holland will pay an additional amount (if any) equal to the difference between \$1,815,000 (\$165,000 x 11 years) and the actual base rent paid through the 11 years term of the Lease.
4. We intend to conduct additional Phase II testing to determine the scope of the contamination. If the results of the testing confirm that the remediation will cost more than \$220,000, then Holland would have the right to terminate the DDA and receive a return of the \$250,000 deposit.
5. Our goal is to make a long-term investment in downtown Vancouver. Our

development of Block 10 is intended to support the health and vitality of the City. However, to make that investment, it must be economically feasible and we must remain competitive and profitable. For example, our property management company is still struggling to remain profitable since the 2007-2010 economic meltdown. We can remain in downtown only so long as tax increases by the City do not put us at a competitive disadvantage. Accordingly, the Ground Lease must include provisions under which we can terminate the obligation to maintain Holland headquarters in Block 10 should the City enact taxes that put us at a competitive disadvantage.

Eric and Chad, if you are prepared to make these recommendations to the City Council, please confirm by countersigning below. If you are not prepared to make these recommendations, this letter does NOT constitute a waiver of due diligence under the DDA, and we reserve our rights to terminate the DDA through January 27, 2020.

Sincerely,

DRAFT

Clyde Holland
Chairman and CEO

City of Vancouver staff is prepared to make the recommendations specified above:

Eric Holmes
City Manager
January __, 2020

cc: Tom Parsons
Greg Daniels
Craig Parker
Mark Bates
Joel Kaplan
Madison Kaplan