

**PORTLAND DEVELOPMENT COMMISSION**  
Portland, Oregon

**RESOLUTION NO. 6776**

**AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AGREEMENT OF ASSIGNMENT AND ASSUMPTION WITH OREGON HEALTH AND SCIENCE UNIVERSITY FOR THE DISPOSITION OF CERTAIN PDC-OWNED AIR RIGHTS ABOVE BLOCK 33 LOCATED ON SW MACADAM AVENUE BETWEEN SW CURRY STREET AND SW GAINES STREET IN THE SOUTH WATERFRONT CENTRAL DISTRICT OF THE NORTH MACADAM URBAN RENEWAL AREA**

**WHEREAS**, on behalf of the City of Portland, the Portland Development Commission (“PDC”) negotiated the South Waterfront Central District Project Development Agreement dated August 23, 2003 (as amended, the “Development Agreement”), with Oregon Health and Science University (“OHSU”), North Macadam Investors, LLC, an Oregon limited liability company (“NMI”), River Campus Investors, LLC, an Oregon limited liability company, and Block 39, LLC, an Oregon limited liability company (collectively, the “DA Parties”) to facilitate development of a certain project area within the North Macadam Urban Renewal Area (“URA”) as a mixed-use neighborhood, including commercial, retail, institutional, and housing uses;

**WHEREAS**, the Development Agreement was most recently amended by the Eighth Amendment to the South Waterfront Central District Project Development Agreement dated November 9, 2006 (the “Eighth Amendment”), which identified certain parcels subject to the Development Agreement, including Block 33, as potential sites for affordable housing;

**WHEREAS**, pursuant to a Master Commercial Lease dated August 1, 2002 (the “Lease”), between Hans and Marilyn Grunbaum, Trustees of the Grunbaum Family Trust (the “Landlord”), and OHSU, successor-in-interest to NMI, as tenant, Landlord leased Block 33 for a term of thirty-five (35) years (the “Leasehold Interest”);

**WHEREAS**, in December 2005, NMI conveyed all of its rights under the Lease to OHSU pursuant to a Sales Agreement and Joint Escrow Instructions (the “Ground Lease Sale Agreement”); *provided, however*, NMI reserved for itself the right to develop the air rights (the “Air Rights”) above the anticipated parking garage to be built by OHSU on Block 33 (the “Parking Garage”);

**WHEREAS**, in accordance with the Eighth Amendment, PDC acquired NMI’s rights and obligations under the Ground Lease Sale Agreement pursuant to an Agreement to Assign and Assume dated November 9, 2006 (the “PDC/NMI Agreement”), for \$3,000,000, in order to secure Block 33 as a potential site for affordable housing;

**WHEREAS**, the PDC/NMI Agreement also provided that use of the Air Rights be restricted to the development of a mixed-use, rental, affordable housing project with such

restriction memorialized in a Restrictive Covenant dated December 5, 2006, and recorded in the records of Multnomah County, Oregon (the “Restrictive Covenant”);

**WHEREAS**, the Restrictive Covenant is not binding on OHSU or its successors;

**WHEREAS**, OHSU and PDC recognize that due to current economic conditions and higher than expected construction costs, neither party will be able to meet its obligation to develop Block 33 or the Air Rights as originally intended;

**WHEREAS**, PDC and OHSU have negotiated an Agreement of Assignment and Assumption for the disposition of the Air Rights to OHSU;

**WHEREAS**, under the Agreement of Assignment and Assumption, PDC will sell the Air Rights to OHSU for \$1,000,000 in transportation system development charge credits and twenty-five percent (25%) of the net proceeds from any future sale to a third party within the next seven years after closing (up to a maximum of \$2,000,000);

**WHEREAS**, in anticipation of OHSU’s construction of the Parking Garage, PDC deposited with OHSU the sum of Three Million and no/100 Dollars (\$3,000,000) (the “Parking Agreement Payment”) to secure parking for future development contemplated on Block 33;

**WHEREAS**, under the Agreement of Assignment and Assumption, OHSU will refund \$1,500,000 of the Parking Agreement Payment to PDC in immediately available funds on the closing date and deliver to PDC a promissory note in the amount of \$1,500,000 due one year following the closing date; and

**WHEREAS**, the DA Parties desire, among other things, to broaden the definition of “Parking Sites” in the Development Agreement to provide OHSU with more flexibility regarding the ultimate location of the Parking Garage, and PDC staff is also seeking the Board of Commissioner’s approval of a Ninth Amendment to the Development Agreement under a separate resolution of even date herewith.

**NOW, THEREFORE, BE IT RESOLVED** that that the Executive Director is hereby authorized to execute the Agreement of Assignment and Assumption with Oregon Health and Science University, substantially in the form attached hereto as Exhibit A, and all related documents necessary for the transactions contemplated thereunder; and

**BE IT FURTHER RESOLVED** that this resolution shall become effective immediately upon its adoption.