

**FIFTH AMENDMENT TO
DEVELOPMENT AND DISPOSITION AGREEMENT**

THIS FIFTH AMENDMENT TO DEVELOPMENT AND DISPOSITION AGREEMENT (this “Fifth Amendment”) is entered into by and between **TOWN CENTER DEVELOPMENT AGENCY** (“TCDA”), and **AVA TIGARD DEVELOPMENT, LLC**, an Oregon limited liability company (“Developer”), collectively, “the Parties,” as of January ____, 2022.

RECITALS:

A. TCDA and Developer entered into that certain Development and Disposition Agreement as of August 16, 2018 (the “DDA”), for the real property located at 12533 – 12537 SW Main Street, Tigard, Oregon, and more particularly described in the DDA (the “Property”). The DDA was amended by that certain First Amendment to Development and Disposition Agreement dated as of September 3, 2019 (the “First Amendment”), by that certain Second Amendment to Development and Disposition Agreement February 11, 2020 (the “Second Amendment”), by that certain Third Amendment to Development and Disposition Agreement dated May 12, 2020, and by that certain Fourth Amendment to Development and Disposition Agreement dated November 17, 2020. The DDA and its amendments are collectively referred to as the “DDA” in this Fifth Amendment.

B. Section 6.2.2 of the DDA states that “the Developer will commence construction on or before the date set forth in the Project Schedule but no later than twelve (12) months after Closing.” Closing occurred on January 13, 2021.

C. Developer has requested an extension of the date by which it must commence construction. The COVID-19 pandemic and its resulting impacts on the construction and lending industries have made the current milestone unattainable. In response, Developer now proposes to eliminate the office floor and construct a 3-story building comprised of ground floor commercial with two stories of apartments.

D. Developer requests the DDA be amended to allow it until January 13, 2023 to commence construction.

AMENDMENT:

1. Section 6.2.2 of the DDA is amended to read as follows:

Developer will commence construction on or before January 13, 2023. For purposes of this section, “commence construction” means Developer has entered into a binding contract providing for construction of the Project to start, the contractor has mobilized equipment and labor on the Property or at an appropriate staging area and has commenced significant physical alteration of the Property such as excavation or grading.

In furtherance of commencing construction on or before January 13, 2023, Developer will provide evidence to the satisfaction of TCDA of the following:

6.2.2.2 On or before September 30, 2022, Developer must provide TCDA with copies of binding commitment letters from lenders for the construction financing for the Project, written evidence of necessary equity commitments, commitments from public funding sources, including the approval by the TCDA, if necessary, subject to standard underwriting practices, for the construction of the Project, or other documentation or assurances as may be reasonably required by TCDA.

IN WITNESS WHEREOF, the parties have executed this Fifth Amendment as of the day and year set forth above.

By: _____

Amireh Saberiyan, Manager and Member

Title: _____