

Alliance Wasatch I, LLC
617 W. Seventh St.
Suite 405
Los Angeles, CA 90017

Dear Ms. Curls-Bennett:

In accordance with the terms and conditions of this Exclusive Negotiation Agreement ("ENA"), King County, a political subdivision of the State of Washington (the "County"), and Alliance Wasatch I, LLC, a California limited liability company authorized to transact business in the State of Washington ("Alliance"), mutually agree that Alliance shall have an exclusive right to negotiate a Housing Land Ground Lease and TOD Development Agreement for the real property adjacent to the Garage Land for the purpose of developing a multi-family, affordable housing and retail project. All capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Project Lease. King County and Alliance are alternatively and collectively referred to as "Parties" and individually as "Party."

The legal description of the Housing Land is more particularly described on Exhibit A, attached hereto and made a part hereof. Concurrent with the execution of this ENA, King County and Alliance have also entered into a Ground Lease and Project Lease, dated for reference purposes August 1, 2010, for the construction of the Garage on the Garage Land. As this ENA is wholly dependent on Alliance's performance under both the Ground Lease and Project Lease, any event of default under either or both of those documents shall also be a default under this ENA.

The County and Alliance have agreed that the following minimum terms shall apply to this transaction: (1) a minimum of 80 units of multi-family rental housing that provide affordable rents to a minimum of 24 units qualifying at 80 percent of the area median income; (2) a minimum of 4,000 square feet of retail space; and (3) sufficient off-street parking for this development as required by the City of Burien such that there is no offset or variance established by using the Garage to satisfy any parking requirements. To further this project, the County and Alliance must consult with one another on coordinated pre-development feasibility, design work and construction planning for the integration of the Housing Project with the Garage Project and must commence this work immediately upon execution of this ENA and in good faith to meet the schedule goals of both Parties. While negotiations remain to be completed to establish the terms of any possible Housing Land Ground Lease and TOD Development Agreement (collectively, "Housing Land Development Documents"), the Parties seek to memorialize their good faith intentions to negotiate and enter into such Housing Land Development Documents no later than the Substantial Completion Date. Toward that end the Parties agree as follows:

1. **Term.** This ENA shall take effect concurrent with the Execution Date and it shall terminate on the earlier of a) Substantial Completion Date or b) termination of the Ground Lease and/or the Project Lease pursuant to the terms thereof or c) default of the Ground Lease and/or Project Lease and subject to termination as stated in any notice of default ("Term"). Notwithstanding the foregoing, after August 1, 2011, if for any reason either Party reasonably determines that the Housing Project is not feasible, this ENA may be terminated upon 30-days written notice to the other Party.

2. **Negotiation.** The Parties herein desire to explore all possibilities to enter into a definitive Housing Land Ground Lease or other arrangement and TOD Development Agreement no later than the date set forth in this ENA so as to further the goals of the project as provided in Request for Proposals -- Burien Downtown Park & Ride, lot A: Mixed Use Development No. 1180-07 dated December 13, 2007, as amended, and agree to negotiate diligently and in good faith toward that end.
3. **Feasibility, Design and Construction Planning.** The County and Alliance agree to assist and coordinate with each other as reasonably needed to allow for the successful and timely completion of negotiations for Housing Land Development Documents so that Alliance may construct the Housing Project. Alliance agrees that the County shall have the right and be given the opportunity to review, comment and approve each stage of design for the Housing Project at no cost to the County. If Alliance determines that the County's requested changes are not feasible, the Parties shall confer in good faith to determine if feasible alternatives exist. This right to review and approve is intended to prevent design proceeding in a manner that does not meet the needs of the County for the Housing Project.
4. **Permits.** Alliance further acknowledges that its obligations to apply for and obtain all permits and approvals under the Project Lease shall include participation in a pre-application meeting with the permitting jurisdiction and submittal of various aspects of a potential Housing Project on the Housing Plans. Alliance agrees to make best efforts, wherever feasible, to integrate conditions required by the permitting jurisdiction or the County under all permits and approvals obtained pursuant to the Project Lease with its ongoing design, construction, and planning obligations regarding the Housing Project and this ENA at no additional cost to the County.
5. **Financing.** Alliance further acknowledges that its obligations pursuant to this ENA include providing evidence reasonably acceptable to the County of the source and availability of any debt and equity funding required to build the Housing Project, including copies the proposed project budget and executed term sheets or executed commitment letters from institutional lenders and equity investors reasonably acceptable to the County with terms and conditions reasonably acceptable to the County. If Alliance is proposing to finance the construction of the Housing Project with tax exempt financing, evidence of financing shall include information that the project has received a volume cap allocation from the Washington State Housing Finance Commission or other qualified issuer.
6. **Exclusivity.** During the Term of this ENA the County shall not (a) solicit offers to lease any of the portion of the Housing Land, (b) negotiate with any other prospective lessee for the Housing Land, or (c) enter into any other exclusivity agreement pertaining to development on the Housing Land with any person or entity other than Alliance.
7. **Exclusivity Payment.** As consideration for the County to enter into this ENA with Alliance, Alliance shall pay to the County the amount of \$5,000.00 per month ("ENA Payment") starting on the Execution Date and due on or before the 1st day of each full calendar month thereafter. The ENA Payment for any partial month shall be prorated on a daily basis at the rate of 1/30 of the ENA Payment. All ENA Payment(s) under this ENA shall be paid in lawful money of the United States and in immediately available funds and are fully earned and non-refundable once paid. In the event that the date on which an ENA Payment is due is not a Business Day, such ENA Payment shall be due on the following Business Day.

8. **Notices.** Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) faxed with proof of receipt and placed in the United States mail, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to King County:

Transit Division
King County Department of Transportation
201 South Jackson Street, KSC-TR-0415
Seattle, WA 98104-3856
Attn: Randy Witt
Tel: (206) 684-1619
Fax: (206) 684-1778

With copy to:

Civil Division
Office of the King County Prosecuting Attorney
516 Third Avenue, W400
Seattle, WA 98104-2316
Attn: Timothy Barnes
Tel: (206) 296-9015
Fax: (206) 296-0191

If to Alliance:

Alliance/Wasatch I, LLC
617 W. Seventh St.
Suite 405
Los Angeles, CA 90017

With copy to:

Sam S. Balisy, Esq.
Kutak Rock, LLP
515 Figueroa Street, Ste. 1240
Los Angeles, CA 90071
Tel: (213) 312-4009
Fax: (213) 312-4001

9. **Exclusive Remedy for Termination.** As a material inducement for either Party to enter into this use ENA, if at the end of the Term, the Parties are unable to come to an agreement on the terms of the Housing Land Development Documents, each Party agrees that it has no recourse whatsoever against the other Party. Both Parties hereby agree and understand that in the event that any contest over the inability to come to an agreement on the terms of the Housing Land Development Documents would exact substantial harm to the to the public in general such that there is no remedy for damages under this ENA either in law or equity, all of which are hereby waived and disclaimed. As such, the Parties hereby waive trial by jury. The Parties also acknowledge that each would not have entered into this ENA without this provision and in the event that either Party attempts to contest or contests the other Party's termination under this ENA either in a court of law or in another administrative arena, this ENA shall automatically terminate without any further action necessary by either Party. The filing of any such contest action shall serve as a notice of termination and is unconditionally binding on the Parties.
10. **Default.** Any Landlord Default under the Project Lease or Lessee Default under the Ground Lease shall constitute a default under this ENA. The County shall have the right, at its sole discretion, to terminate this ENA without obligation or cost.
11. **Miscellaneous.** In the event any portion of this ENA shall be found to be invalid by any court of competent jurisdiction, such holding shall not impact or affect the remaining provisions of this ENA. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any prior or subsequent breach or default. The Parties

understand and agree that this ENA does not create any partnership, joint venture or joint undertaking nor shall such an arrangement be construed from this ENA. The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections. This ENA and all amendments, if any, shall be governed by and construed in accordance with the laws of the State of Washington applicable to exclusive rights to negotiate in good faith made and to be performed therein, without giving effect to any conflicts of law provisions. This ENA may not be assigned by Alliance without the prior written consent of the County, which consent may be withheld in the County's sole and absolute discretion, which may be arbitrary. This ENA and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties, and the language in all parts of this ENA will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. All Parties acknowledge and represent, as an express term of this ENA, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this ENA. The Exhibits described herein and attached hereto are fully incorporated into this ENA by this reference.

AGREED AND ACCEPTED:

KING COUNTY, WASHINGTON

Kevin Desmond
Manager, Transit Division
Date: _____

AGREED AND ACCEPTED:

ALLIANCE WASATCH I, LLC

Date: _____