VIEW EASEMENT AGREEMENT

THIS VIEW EASEMENT AGREEMENT (this "Agreement") is made and entered into as of 2018 by and between CARLYLE BUILDING, LLC, an Oregon limited liability company, ("Grantor") and LOT-306 LLC, an Oregon limited liability company and WEST ALDER, LLC, an Oregon limited liability company (together "Grantee").

RECITALS

A. Grantee owns that certain real property legally described as Lots 1, 2, 5, 6, 7 AND 8, Block 256, in the City of Portland, Multnomah County, State of Oregon ("Parcel A").

B. Grantor owns that certain real property legally described as Lot 3, Block 256, in the City of Portland, Multnomah County, State of Oregon ("Parcel B").

C. Grantee desires to obtain from Grantor, and Grantor desires to grant to Grantee, a perpetual easement over and across the air space above the Height Limit (defined below) of Parcel B for the purpose of protecting the views from Parcel A on the terms and conditions set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantee and Grantor agree as follows:

1. Definitions. The terms specified below shall have the following meanings when used in this Agreement:

1.1 "Air Space" means the air space above the Height Limit of Parcel B.

1.2 "Height Limit" means the height of the building on Parcel B as of the date of this Agreement, which is 124.6 feet above sea level (ASL).
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AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantee and Grantor agree as follows:

1. Definitions. The terms specified below shall have the following meanings when used in this Agreement:

1.1 "Air Space" means the air space above the Height Limit of Parcel B.

1.2 "Height Limit" means the height of the building on Parcel B as of the date of this Agreement, which is 124.6 feet above sea level (ASL).
1.3 “Improvements” means all buildings, structures, improvements fences, walls, works of construction, trees, shrubs, landscaping, vegetation, and natural growth.

1.4 “Permitted Improvements” means, to the extent now existing or hereafter installed within the Air Space in compliance with applicable law (including any applicable design review requirements): (i) any and all rooftop fixtures and equipment, including (without limitation) heating, ventilating and cooling equipment; (ii) roof deck improvements and amenities (including any and all furniture, fireplace or firepit, outdoor grill or other cooking equipment and similar amenities); (iii) roof deck screening (to a height not in excess of 42 inches); (iv) trees, shrubs and other landscaping planted in containers, to a height not in excess of 5 feet and if over 5 feet, setback from the north property line by 10 feet; (v) telecommunications equipment (but only if screened with industry standard clearance heights from view of any building constructed on Parcel A and setback from the north property line by 10 feet); (vi) skylights for the structure below the Height Limit; and (vii) any other customary rooftop improvements that are reasonably necessary for the use, operation and enjoyment of the improvements on Parcel B constructed below the Height Limit; provided however that in addition to these restrictions, Grantor shall use good faith efforts to minimize impacts to views from Parcel A resulting from any Permitted Improvements.

1.5 “Parcel A Owner” means Grantee for so long as Grantee owns fee title to Parcel A, and thereafter, each then-current owner of fee title to Parcel A.

1.6 “Parcel B Owner” means Grantor for so long as Grantor owns fee title to Parcel B, and thereafter, each then-current owner of fee title to Parcel B.

2. Grant of Easement. Grantor hereby grants a perpetual easement over and across Parcel B, but only in and to the Air Space of Parcel B, for the benefit of Parcel A to protect the views from Parcel A. The Parcel B Owner shall not construct, erect, install, or permit to exist any Improvements on, over, or within the Air Space of Parcel B, any part of which is higher than the Height Limit, excepting only Permitted Improvements. Without limiting the generality of the foregoing, the Parcel B Owner shall not increase the height of the building on Parcel B or any Improvement thereon in excess of the Height Limit.

3. Uses of Lot 3; Temporary Use of Air Space. Grantor has and retains all rights to use Parcel B to the extent such use is not inconsistent with the easement rights granted to Grantee with respect to the Air Space. In addition, in the event of damage, destruction or replacement of the building or other installation of other Improvements on Parcel B at heights below the Height Limit, or any other use of Parcel B below the Height Limit, Grantor shall have the right to employ the Air Space on a temporary basis (such as for the erection of a crane or use of similar equipment) as necessary to engage in such permitted uses and shall make a good faith effort to limit the temporary use to no longer than is necessary to engage in the permitted use.

4. Development of Parcel A. If the City of Portland requires the windows on the north side of Parcel B to be filled as part of any building improvement on Parcel A, Grantee shall fund the cost of filling such windows. The cost will be established through a competitive bidding process, including at least
three (3) bidders, and the lowest cost bid shall be selected. Grantor shall complete the work in the manner and on the timeline required by the City of Portland. The parties acknowledge that building improvements on Parcel A will introduce a fire-rated wall along Grantor’s northern property line. The wall area below the Height Limit will not contain any windows, effectively resulting in window in-fill for any remaining windows below the Height Limit on Parcel B.

5. Enforcement. If the Parcel B Owner constructs, erects, installs, or permits to exist any Improvement on, over or within Parcel B in violation of Section 2 above, then the Parcel A Owner shall have the right to seek money damages, equitable relief, including specific performance, injunctive relief, or any other remedy at law or in equity. These rights and remedies are cumulative. The Parcel B Owner acknowledges that the Parcel A Owner would be irreparably harmed by a breach of this Agreement by the Parcel B Owner. Accordingly, the Parcel B Owner (a) waives any claim or defense that the Parcel A Owner has an adequate remedy at law for any breach and (b) agrees that the Parcel A Owner will not be required to post a bond or other security in connection with any equitable relief.

6. Notices. All notices, requests, demands and other communications hereunder shall be in writing, shall be delivered with all applicable postage and delivery changes prepaid, and shall be sent by personal delivery, registered or certified mail (return receipt requested) or nationally-recognized overnight courier service. All notices to the Parcel A Owner shall be delivered to the Parcel A Owner in care of Greg Goodman, 920 SW Sixth Avenue, Suite 223, Portland, Oregon 97204 with a copy to Christe White, RWPA, 111 SW Columbia Street, Portland, Oregon 97201, unless the Parcel A Owner notifies the Parcel B Owner in writing of a different mailing address. All notices to the Parcel B Owner shall be delivered to Carlyle Building, LLC, Attn: Jordan Menashe, 621 SW Alder Street, Suite 800, Portland, OR 97205, unless the Parcel B Owner notifies the Parcel A Owner in writing of a different mailing address. All notices shall be deemed given on the earlier of actual delivery or refusal of a party to accept delivery thereof.

7. Easement to Run with Land: Binding Effect. The rights, easements, covenants and obligations contained in this Agreement shall be permanent and shall run with, be binding upon, benefit and burden Parcel A and Parcel B including any partition or division of Parcel A or Parcel B. The rights, easements, covenants, and obligations contained in this Agreement shall bind, burden, and benefit the Parcel A Owner and the Parcel B Owner.

8. Entire Agreement; Modifications. This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter contained herein, and supersedes any prior express or implied agreement of understanding between the parties with respect to the subject matter hereof. This Agreement may be modified, amended, or rescinded only by a written instrument executed by the Parcel A Owner and the Parcel B Owner and recorded in the official records of Multnomah County, Oregon.

9. Severability. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, and each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.
10. Waiver. No waiver of any breach of any of the easements, covenants, obligations, or agreements contained in this Agreement shall be construed as, or constitute, a waiver of any other breach or a waiver, acquiescence in, or consent to any further or succeeding breach of the same or any other easement, covenant, obligation, or agreement.

11. Attorneys' Fees and Costs. If any legal action or any other proceeding is brought for the enforcement or interpretation of this Agreement, or because of an alleged dispute, breach, or default of any provisions of this Agreement, the successful, prevailing or non-defaulting party shall be entitled to recover from the losing or defaulting party reasonable attorneys' fees and other costs incurred in the action or proceeding, in addition to any other relief to which is may be entitled, including the fees and costs incurred in enforcing any judgment which may be obtained in said action or proceeding, in addition to any other relief to which it may be entitled, including the fees and costs incurred in enforcing any judgment which may be obtained in said action or proceeding.

SIGNATURE PAGES FOLLOW
GRANTOR:
CARLYLE BUILDING, LLC
An Oregon Limited Liability Company

By: ____________________
Name: R. Barry Menache
Title: Member

GRANTEE:
LOT-306 LLC
An Oregon Limited Liability Company

By: ____________________
Name: ____________________
Title: ____________________

WEST ALDER, LLC
An Oregon Limited Liability Company

By: ____________________
Name: ____________________
Title: ____________________

STATE OF OREGON

County of Multnomah

This instrument was acknowledged before me this 23 day of November by R. Barry Menache, who is the Member of Carlyle Building, LLC, an Oregon limited liability company, on behalf of such limited liability company.

Notary Public for Oregon
My commission expires: 7/23/19
STATE OF OREGON

County of Multnomah

This instrument was acknowledged before me this 28th day of November, by Greg Goodman, who is the manager of Lot-306 LLC and West Alder LLC, an Oregon limited liability company, on behalf of such limited liability company.

Randi Moore
Notary Public for Oregon
My commission expires: 1/25/19