

## PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **Port of Seattle**, a Washington municipal corporation (“Seller”), and **Bluefield Holdings Inc.**, a Nevada corporation with its principal office located at 1880 West Oak Parkway, Marietta, GA 30062 (“Buyer”), with reference to the following facts:

A. The Port owns real property, also referred to as Parcel #7666703100, legally described at **Exhibit A**, depicted at **Exhibit B**, and located at the southwest corner of Harbor Island, just south of the West Seattle Bridge and on the edge of the Duwamish Waterway just north of Harbor Island Marina.

B. Parcel #7666703100 is a triangular shaped parcel consisting of approximately 5,743 square feet of land, seventy percent of which is submerged in the Duwamish Waterway, leaving approximately 1700 square feet of dry land. It is isolated by right-of-way and the Duwamish Waterway and disconnected from the Port’s Terminal 102.

C. According to the Environmental Protection Agency (“EPA”) website’s Harbor Island Site Summary, “the entire island and associated sediments are designated as the Superfund site.” The Harbor Island Superfund Site has four operable units, one of which is the Soil and Groundwater Operable Unit (“S&GOU”). It is the Port’s understanding that Parcel #7666703100 is subject to the terms and conditions of the “Notice of Consent Decree and Right of Access” recorded August 21, 1996 (Recording No. 9608211528). However, the Notice’s Exhibit B, which is supposed to include legal descriptions of the parcels to which the Notice applies, does not currently include a legal description of Parcel #7666703100. The Port does not know of any agreed map depicting the boundaries of the S&GOU that would clarify matters. Nevertheless, EPA’s characterization of the Superfund Site as including the entire island is consistent with the Port’s understanding that the uplands portion of Parcel #7666703100 lies within the boundary of the S&GOU of the Harbor Island Superfund Site. As of now, no cleanup has been conducted or required on the upland portion of the parcel.

D. Pursuant to its obligations under the Harbor Island S&GOU Consent Decree, the Port (or its successor in interest) is required to file a restrictive covenant to limit soil and groundwater use on all parcels within the S&GOU. EPA has approved and signed the restrictive covenant (“Restrictive Covenant”) to Parcel #7666703100 and it has been recorded in King County under Recording No. 20151021001212.

E. Bluefield Holdings, Inc. is a private company that oversees the development of habitat restoration or enhancement on land that it leases or owns and sells credits to potentially responsible parties (“PRPs”) to offset PRP liability for lost use by wildlife or people of contaminated property.

F. In May 2009, the Elliott Bay Trustee Council which coordinates the implementation of natural resource damage (“NRD”) assessments and restoration activities in the

Lower Duwamish Waterway, Harbor Island, and Lockheed West Superfund sites (“Elliot Bay site”) approved a protocol that allows for up-front restoration projects to satisfy NRD claims. The approval of this protocol opened the way for Bluefield to build habitat restoration and enhancement projects within the Elliott Bay site that have the potential to count toward satisfying NRD liability. The approval provided financial incentive for Bluefield to move forward with leasing land from the City of Seattle for construction of the projects and for PRPs to purchase credits to offset their NRD liability in advance of construction.

G. The City of Seattle owns Parcel #766703000, a 1.07 acre parcel of land north of and adjacent to the Port-owned Parcel #766673100. The City leased Parcel # 7666703000 to Bluefield for development of habitat restoration and enhancement projects. Bluefield has undertaken the design and permitting process for a restoration project on Parcel # 7666703000.

H. Bluefield wishes to purchase the Port-owned Parcel# 7666703100 because it is uniquely positioned to undertake a habitat restoration project that will not only be potentially profitable for Bluefield but also, in combination with adjacent Parcel# 7666703000, allow Bluefield to optimize the layout of its project.

I. The small size of Parcel 7666703100 would make it financially challenging to justify construction and maintenance costs for the Port to build its own habitat restoration project at this location.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

**1. Property.** Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the following:

**1.1 Land.** That certain real property located in Seattle, King County, Washington, consisting of approximately 5,743 square feet of land and legally described on **Exhibit A** attached hereto;

**1.2 Appurtenances.** All rights, privileges and easements appurtenant to the Land (all of which are collectively referred to as the “Appurtenances”);

**1.3 Improvements.** All improvements and fixtures, if any, located on the Land (all of which are hereinafter collectively referred to as the “Improvements”).

All of the items described in **Paragraphs 1.1, 1.2 and 1.3** above are herein collectively referred to as the “Property.”

**2. Purchase Price.** The parties hereby agree Fifty Three Thousand Dollars and 00/100 (\$53,000.00) constitutes the full purchase price for the Property.

**3. Opening Escrow.** Within seven (7) business days following the execution date of this Agreement, Buyer shall open escrow with First American Title Insurance Company (the “Escrow Agent”), by depositing with Escrow Agent a copy of this Agreement.

“Execution date” means the date on which the party that is the last to sign this Agreement has signed it.

**4. Closing Date.** The closing (the “Closing”) shall be held at the offices of the Escrow Agent, on or before April 29, 2016 (the “Closing Date”) unless otherwise agreed in writing by the parties.

**5. Title and Survey Matters.**

**5.1 Title Binder.** Buyer has obtained a preliminary commitment and supplemental report for an ALTA owner’s standard coverage title insurance policy (title order no. NCS-657443-WA1 dated 10/24/2014, as supplemented), issued by First American Title Insurance Company (“Title Company”) describing the Property, showing all matters pertaining to the Port Property and listing Buyer as the prospective named insured. Following the mutual execution of this Agreement, Buyer may obtain from Title Company at Buyer’s sole cost additional written supplemental report to such preliminary commitment, in a form acceptable to Buyer, updating the preliminary commitment to the execution date of the Agreement. Such preliminary commitment, supplemental reports and true, correct and legible copies of all documents referred to in such preliminary commitment and supplemental reports as conditions or exceptions to title to the Property are collectively referred to herein as the “Title Binder.”

**5.2 Title Review.** During the Contingency Period (as defined below), Buyer shall finish reviewing the Title Binder and any surveys of the Property, and at least ten (10) business days before the expiration of the Contingency Period, Buyer shall notify Seller of what exceptions, to title, if any, will not be accepted by Buyer. If Buyer fails to give Seller such notice at least ten (10) business days before the expiration of the Contingency Period, Buyer shall be deemed to have accepted the title as is. Seller shall have two (2) business days after receipt of Buyer’s notice of objections to give Buyer notice of which exceptions, if any, Seller shall cause to be removed from title.

If Seller fails to give Buyer such notice before the expiration of the two (2)-day period, (“Seller’s Notice Period”) Seller shall be deemed to have elected not to cause such objectionable exceptions to be removed from title. If Seller gives notice that it will not remove any objectionable exception from title or shall be deemed to have elected not to cause such objectionable exceptions to be removed from title, Buyer may terminate the Agreement by giving written notice to Seller. Failure by Buyer to so terminate this Agreement before the expiration of Contingency Period, shall be deemed as Buyer’s election to proceed with this transaction. Encumbrances to be discharged by Seller may be paid out of the Purchase Price at Closing.

“Contingency Period” means the period starting on the date of execution of this Agreement and ending at 5:00 p.m. on the day which is two (2) business days before the Closing Date.

The following shall be deemed "Permitted Exceptions":

- (i) Notice of Consent Decree and Right of Access, Recording No. 9608211528, recorded August 21, 1996.
- (ii) Restrictive Covenant, Recording No. 20151021001212, recorded October 21, 2015 (limiting soil and groundwater use).
- (iii) Any encumbrance which Buyer accepts or is deemed to accept under the above provisions of this Paragraph 5.2.

**5.3 Title Policy.** At Closing, Buyer shall cause Title Company to issue an Owner's standard coverage title insurance policy ("Title Policy") to Buyer, at Buyer's sole cost. The Title Policy shall insure Buyer against loss as a result of any liens, encumbrances, or restrictions, subject to the Permitted Exceptions. The Title Policy shall insure fee simple, indefeasible title to the Port Property in Buyer, subject only to the Permitted Exceptions and contain endorsements as Buyer may reasonably require. Buyer may elect to obtain an extended form of title insurance policy from the Title Company, in which case Buyer shall pay the extra premium for such extended coverage. Buyer's obligation to close this transaction shall be contingent on the issuance of the Title Policy required under this Paragraph 5.

## **6. Conditions to Buyer's Obligations.**

**6.1 Inspection of the Property.** Buyer acknowledges that its employees, representatives, consultants and/or agents have inspected and completed environmental due diligence with respect to the Property.

**6.2 Additional Closing Conditions.** Buyer's obligation to purchase the Property shall also be subject to the following conditions that must be satisfied as of the Closing Date:

- (i) Prior to Closing, all Contracts (as defined below), if any, with respect to the Property shall be terminated in writing.
- (ii) All representations and warranties of Seller contained herein shall be true, accurate and complete at the time of the Closing as if made again at such time;
- (iii) Seller shall have performed all obligations to be performed by it hereunder on or before the Closing Date (or, if earlier, on or before the date set forth in this Agreement for such performance);
- (iv) At Closing, title to the Port Property shall be in the condition required by Paragraph 5 of this Agreement and Escrow Agent shall deliver the Title Policy to Buyer.

If the conditions set forth in this Paragraph 6 are not satisfied as of Closing and Buyer does not waive the same, Buyer may terminate this Agreement, and thereafter neither Buyer nor Seller shall have any further liability to the other under this Agreement.

**7. Seller's Representations and Warranties.** Seller hereby makes the following representations and warranties, which representations and warranties shall be deemed made by Seller to Buyer also as of the Closing Date:

**7.1 Title.** Seller has been the sole owner of the Property. At Closing, Buyer will acquire the entire fee simple estate and right, title and interest in and to the Property via Seller's special warranty deed in substantially the same form as **Exhibit C**, attached hereto.

**7.2 Compliance with Law.** To the best of Seller's knowledge, during the period the Seller controlled the Property, it has complied in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules and regulations of any governmental authority having jurisdiction over the Property. Seller has no actual knowledge of any facts that might give rise to any violation of the foregoing matters.

**7.3 Bankruptcy.** No bankruptcy, insolvency, rearrangement or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Seller.

**7.4 Foreign Person.** Seller is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code") and shall deliver to Buyer prior to the Closing an affidavit evidencing such fact and such other documents as may be required under the Code.

**7.5 Tax Returns.** Seller has filed all local, state and federal tax forms that are required to be filed by Seller with respect to the Property, has paid or made provision for payment of all taxes due and payable by Seller to date and will pay all such taxes that become due and payable by Seller prior to the Closing.

**7.6 Mechanics' Liens.** No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborer's or materialmen's liens or claims might arise during the period of Seller's possession and control of the Property.

**7.7 Leases and Other Agreements.** Except as specifically disclosed by Seller pursuant to this Agreement, Seller represents that there are no leases, service agreements, licenses, easements, option agreements or other contracts (whether oral or writing) (collectively, "Contracts") in effect with respect to the Property. Seller further represents that there are no disputes or claims, or any set of facts known to Seller that could lead to a dispute or a claim, under any Contracts. Seller shall comply with the requirements of Section 6.2(i) with respect to any and all Contracts prior to Closing.

**7.8 Defaults.** Seller is not in default and there has occurred no uncured event which, with notice, the passage of time or both would be a default, under any contract, agreement, lease, encumbrance, or instrument pertaining to the Property.

**7.9 Due Authority.** Seller has all requisite power and authority to execute and deliver this Agreement and to carry out its obligation hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitute the Seller's legal, valid and binding obligation enforceable against Seller in accordance with its terms. The consummation by Seller of the sale of the Property is not in violation of or in conflict with nor does it constitute a default under any of the terms of any agreement or instrument to which Seller is or may be bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

**7.10 Finders' or Brokers' Fees.** Seller has not dealt with any broker or finder to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement and insofar as it knows, no broker or other person is entitled to any commission, charge or finder's fee in connection with the transactions contemplated by this Agreement.

**7.11 No Omissions.** All representations and warranties made by Seller in this Agreement, and all information contained in any certificate furnished by Seller to Purchaser in connection with this transaction, are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained herein or therein not misleading. The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

**8. Covenants of Seller.** Seller covenants and agrees as follows:

**8.1 No Liens.** From the date of this Agreement to the Closing Date, Seller will not allow any lien to attach to the Property, nor will Seller grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option or other right affecting the Property or any part thereof without Buyer's written consent first having been obtained.

**8.2 Provide Further Information.** From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware which materially affects the Property or any part thereof promptly upon learning of the occurrence of such event.

## 9. Closing.

**9.1 Time and Place.** Provided that all the contingencies set forth in this Agreement have been previously fulfilled, the Closing shall take place at the place and time determined as set forth in Paragraph 4 of this Agreement.

**9.2 Documents to be Delivered by Seller.** For and in consideration of, and as a condition precedent to, the payment to Seller of any of the Purchase Price, Seller shall obtain and deliver to Buyer at Closing the following documents (all of which shall be duly executed and acknowledged where required):

- (i) Special Warranty Deed. A special warranty deed (“Deed”) in recordable form and otherwise substantially in form as the sample attached hereto as **Exhibit C** as will convey to Buyer fee simple title at Closing.
- (ii) Title Documents. Such other documents as shall be required by the Title Company as a condition to its insuring Buyer’s good and marketable fee simple title to the Property free of any exceptions, other than the Permitted Exceptions.
- (iii) Authority. Such evidence as the Title Company shall require as to authority of Seller to convey the Property to Buyer.

**9.3 Documents to be Delivered by Buyer.** For and in consideration of, and as a condition precedent to, Seller’s conveyance of the Property, Buyer shall deliver to Seller at Closing the following documents:

- (i) Authority. Such evidence as the Title Company shall require as to authority of Buyer to purchase the Property from Seller.

**9.4 Payment of Costs.** At Closing, Buyer shall pay the premium for the Owner’s Title Policy to be issued by Title Company to Buyer and the fee to record the Deed. The escrow fee shall be paid one-half by Buyer and one-half by Seller. With respect to any and all other costs incurred with respect to the consummation of the purchase and sale of the Property, Seller and Buyer shall pay their own respective costs. Seller anticipates that this transaction is not subject to real estate excise tax because Seller is exempt under Chapter 82.45 RCW and Chapter 458-61A WAC.

**9.5 Assessments.** Seller shall pay in full any assessments due or to become due with respect to the Property for the period up to the Closing Date.

**9.6 Monetary Liens.** Seller shall pay or cause to be satisfied at or prior to Closing all monetary liens on or with respect to the Property, including, but not limited to, mortgages, deeds of trust, security agreements, assignments of leases, rents and/or easements, judgment liens, tax liens (other than those for taxes not yet due and payable) and financing statements to the extent arising out of Seller’s acts prior to Closing.

**9.7 Possession.** Buyer shall have possession of the Property on the Closing Date. If any personal property remains on the Property at Closing, then Buyer may remove all such personal property.

**10. Buyer's Representations and Warranties.** Buyer hereby makes the following representations and warranties, which representations and warranties shall be deemed made by Buyer to Seller also as of the Closing Date:

**10.1 Due Authority.** Buyer has all requisite power and authority to execute and deliver this Agreement and to carry out its obligation hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Buyer and constitute Buyer's legal, valid and binding obligation enforceable against Buyer in accordance with its terms. The consummation by Buyer of the purchase of the Property is not in violation of or in conflict with nor does it constitute a default under any of the terms of any agreement or instrument to which Buyer is or may be bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

**10.2 Finders' or Brokers' Fees.** Buyer has not dealt with any broker or finder to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement and insofar as it knows, no broker or other person is entitled to any commission, charge or finder's fee in connection with the transactions contemplated by this Agreement.

**11. Sale of Property "As Is."** Having fully inspected the Property, and having had the opportunity to obtain the report of professionals, Buyer agrees to accept the Property "As Is," including its pre-existing environmental condition and any and all defects, and assumes the risk of any and all defects in the condition of the Property as well as its pre-existing environmental condition. Buyer acknowledges and agrees that Seller makes no representations or warranties of any kind concerning the Property (including the Property's condition or suitability for Buyer's intended use), except as specifically set forth in Section 7.

**11.1 Consent Decree.** Buyer acknowledges that Buyer has had the opportunity to review the Consent Decree in *U.S. v. Port of Seattle et al.*, Civil Action No. C95-1495-Z, effective August 6, 1996 (Recording No. 9608211528) and consult with Buyer's attorney regarding restrictions applicable to the Property and the implications of the terms and conditions in the Consent Decree, including but not limited to the requirement of access in Section X of the Consent Decree.

**11.2 Cleanup Incomplete.** Buyer acknowledges that the Seller has not yet received a certification of completion of remedial action from the EPA and that the Property remains part of the Harbor Island Ground and Soil Operable Unit of a Superfund site.

**11.3 Future Remedial Actions.** Buyer acknowledges that although the



Property was not involved in the cleanup action, there is a possibility that other work required by the Consent Decree, including but not limited to operation and maintenance of the Harbor Island Ground and Soil Operable Unit, may involve the Property in the future.

**11.4 Reopener per Section XXII.110.** Buyer acknowledges that, consistent with the Consent Decree at Section XXII.110, even after certification of the completion of Remedial Action, the EPA reserves the right to sue or take administrative action or issue a new administrative order to compel further response actions or reimburse the U.S. for the cost of response if unknown conditions at the Harbor Island G & S Operable Unit become known or if previously unknown information is received by the EPA and these conditions or information indicates the Remedial Action is inadequate to protect human health and the environment.

**11.5 Reopener per Section XXII.112.** Buyer acknowledges that, consistent with the Consent Decree at Section XXII.112, EPA also reserves the right to sue or issue administrative orders for other situations such as the failure to meet the requirements of the Consent Decree, violations of law occurring during and after implementation of the remedial action, and other liabilities and costs.

**11.6 EPA Lien.** Buyer acknowledges that the Property is subject to Restrictive Covenant under King County Recording No. 20151021001212, and any other liens that may be retained by the U.S. pursuant to the Consent Decree.

**11.7 Subject to Other Contracts.** Buyer acknowledges that as long as the certificate of completion of Remedial Action is still pending, the Property may be subject, or become subject, to Contracts related to completion of all activities Settling Defendants are required to perform under the Consent Decree.

**11.8 Access.** Buyer acknowledges that the obligations of Settling Defendants with respect to the provision of access under Section X of the Consent Decree is binding upon any and all persons who subsequently acquire any such interest or portion thereof.

## **12. Conditions to Seller's Obligations.**

**12.1** Seller's obligation to sell the Property to Buyer shall be subject to the following conditions that must be satisfied by the end of the Contingency Period:

- (i) Buyer and Seller have agreed on the form of the Deed (see **Exhibit C**).
- (ii) Buyer's acknowledgment of receipt of Port's written notice of Consent Decree.
- (iii) Buyer and Seller have cooperated to provide to EPA information regarding the proposed conveyance of Parcel #7666703100 as required in paragraph 26 at p.16 of the Consent Decree; information shall include name and address of Buyer/Grantee, date on which Grantee received the Port's written notice of Consent Decree; such information shall be provided to EPA in the form of written notice to EPA at least 30 days prior to Closing.

**12.2** Seller's obligation to sell the Property to Buyer shall be subject to further conditions that must be satisfied at Closing:

- (i) Buyer pays the fee to record the Deed, and one-half the escrow fee.
- (ii) Buyer delivers any other costs required by the terms of this Agreement to be paid by or delivered by Buyer.

If any of the conditions set forth in this Paragraph 12.2 are not satisfied as of Closing and Seller does not waive the same, Seller may terminate this Agreement, and thereafter neither Buyer nor Seller shall have any further liability to the other under this Agreement.

### **13. Indemnification.**

**13.1 General indemnification.** Seller shall protect, and pay the defense costs of, indemnify and hold Buyer and its successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty, covenant or other agreement of Seller set forth in this Agreement; or (b) the failure of Seller to perform any obligation required by this Agreement to be performed by Seller.

Buyer shall pay, protect, and pay the defense costs of, indemnify and hold Seller and its successors and assigns harmless from and against any and all loss, liability, claim, damage and expense suffered or incurred by reason of (a) the breach of any representation, warranty, covenant or other agreement of Buyer set forth in this Agreement; or (b) the failure of Buyer to perform any obligation required by this Agreement to be performed by Buyer.

**13.2 Pre-existing hazardous substances.** For purposes of this section, "Hazardous Substance" shall mean and refer to any hazardous or toxic substance, material or waste, including, but not limited to, (i) those substances, materials, and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. 172.101), (ii) those substances, materials, and wastes listed by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. Part 302 and amendments thereto), (iii) those substances, materials and wastes listed by the Washington State Department of Ecology as hazardous substances (Washington Administrative Code 173-303 and 173-340), (iv) petroleum products and their derivatives, and (v) such other substances, materials and wastes as are or become regulated or subject to cleanup authority by any federal, state, or local jurisdiction under any environmental laws.

- (i) Except as otherwise provided in this Section 13.2, Buyer shall have no obligation to indemnify or defend Seller, Seller's agents, elected officials, officers or employees, from and against any and all liability, loss, damage, expense, actions and claims arising from or related to the pre-existence of any Hazardous Substances, if any, in, under, or on the Property.

- (ii) Buyer shall indemnify or defend Seller, Seller's agents, elected officials, officers or employees, from and against any and all liability, loss, damage, expense, actions and claims arising from or related to the migration of Hazardous Substances regardless of whether they are pre-existing or released by Buyer, if the activities of Buyer, Buyer's agents, contractors, officers, employees or invitees cause such migration.
- (iii) Buyer shall indemnify or defend Seller, Seller's agents, elected officials, officers or employees, from and against any and all liability, loss, damage, expense, actions and claims arising from or related to activity of Buyer that results in application of the remedies in the Harbor Island S&GOU Consent Decree.
- (iv) Buyer shall indemnify or defend Seller, Seller's agents, elected officials, officers or employees, from and against any and all liability, loss, damage, expense, actions and claims arising from or related to the actions or omissions of Buyer, Buyer's agents, contractors, officers, employees or invitees that exacerbate contamination or increase the level of any pre-existing Hazardous Substances to actionable levels or that are in breach of Buyer's obligations under this Agreement.
- (v) Buyer waives and releases Seller from any and all liability, loss, damage, expense, actions or claims arising from or related to the pre-existence of Hazardous Substances, if any, in, under, or on the Property.

**14. Condemnation.** In the event of any commenced, to be commenced or consummated proceedings in eminent domain or condemnation (collectively "Condemnation") respecting the Property or any portion thereof, on or after the date of this Agreement and prior to the Closing, Buyer may elect, by written notice to Seller, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase the Property. If Buyer terminates this Agreement neither Buyer nor Seller shall have any further liability to the other hereunder. If Buyer fails to make such election prior to the Closing Date, this Agreement shall continue in effect, there shall be no reduction in the Purchase Price, and Seller shall, at the Closing, assign to Buyer, by an assignment agreement in form and substance satisfactory to Buyer, its entire right, title and interest in and to any Condemnation award or settlement made or to be made in connection with such Condemnation proceeding. Buyer shall have the right at all times to participate in all negotiations and dealings with the condemning authority and approve or disapprove any proposed settlement in respect to such matter. Seller shall forthwith notify Buyer in writing of any such Condemnation respecting the Property.

**15. Casualty or EPA action or order.** Either Buyer or Seller may elect, by written notice to the other party, to terminate this Agreement and the escrow created pursuant hereto and be relieved of its obligation to purchase or sell the Property on the occurrence of the following events: (a) fire, windstorm or other casualty that materially affects the use of all or any portion of the Property; (b) prior to Closing, U.S. EPA institutes proceedings in Civil Action C95-1495-Z or in a new legal action; (c) prior to Closing, U.S. EPA issues an administrative order seeking

to compel Settling Defendants in the Consent Decree in Civil Action C95-1495-Z to perform further response actions relations to the Harbor Island S & G Operating Unit. If either party terminates this Agreement under this Paragraph 15, neither Buyer nor Seller shall have any further liability to the other hereunder. If neither party makes such election prior to the Closing Date, this Agreement shall continue in effect, the Purchase Price shall be reduced by the amount of loss or damage occasioned by a casualty not covered by insurance, but in no event will the Seller reimburse the Buyer for an amount that exceeds the Purchase Price. Seller shall promptly notify Buyer in writing of any such casualty or EPA action or order respecting the Property.

**16. Notices.** Unless applicable law requires a different method of giving notice, any and all notices, demands or other communications required or desired to be given hereunder by any party (individually, “notice” and collectively, “notices”) shall be in writing and shall be validly given or made to another party if delivered either personally or by Federal Express or other overnight delivery service of recognized standing, or if deposited in the United States mail, certified, registered, or express mail with postage prepaid. If such notice is personally delivered, it shall be conclusively deemed given at the time of such delivery. If such notice is delivered by Federal Express or other overnight delivery service of recognized standing, it shall be deemed given twenty four (24) hours after the deposit thereof with such delivery service. If such notice is mailed as provided herein, such shall be deemed given forty eight (48) hours after the deposit thereof in the United States mail. Each such notice shall be deemed given only if properly addressed to the party to whom such notice is to be given as follows:

To Seller:                      Port of Seattle  
   P.O Box 1209  
   Seattle, WA 98111  
   Attn:

With a copy to:              General Counsel  
   Port of Seattle  
   P.O. Box 1209  
   Seattle, WA 98111

To Buyer:                      Bluefield Holdings, Inc.  
   ATTN: General Counsel  
   1880 West Oak Parkway  
   Suite 106  
   Marietta, GA 30062

Any party hereto may change its address for the purpose of receiving notices as herein provided by a written notice given in the manner aforesaid to the other party hereto.

**17. Event of Default.** In the event of a default under this Agreement by either party (including a breach of any representation, warranty or covenant set forth herein), the injured

party shall be entitled, in addition to all other remedies at law or equity, to seek monetary damages and specific performance of the defaulting party's obligations hereunder.

## **18. Miscellaneous.**

**18.1 Applicable Law.** This Agreement shall in all respects, be governed by the laws of the State of Washington.

**18.2 Further Assurances.** Each of the parties shall execute and deliver any and all additional papers, documents and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of its obligations hereunder, to carry out the intent of the parties hereto.

**18.3 Modification or Amendment, Waivers.** No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties hereto. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

**18.4 Successors and Assigns.** All of the terms and provisions contained herein shall inure to the benefit of and shall be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

**18.5 Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect. The parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the parties.

**18.6 Attorneys' Fees.** Should either party bring suit to enforce this Agreement, each party will pay its own attorneys' fees, costs and expenses.

**18.7 Construction.** Captions are solely for the convenience of the parties and are not a part of this Agreement. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. If the date on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

**18.8 Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

**18.9 Survival.** The covenants, agreements, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

**18.10 Time.** Time is of the essence of every provision of this Agreement.

**18.11 Force Majeure.** Performance by Seller or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused.)

**18.12 Waiver; Succession.** The waiver by Seller or Buyer of any covenant, condition or agreement herein contained shall not vitiate the same or any other covenant, condition or agreement contained herein and the terms, conditions, covenants and agreements contained herein shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

SELLER:

Port of Seattle, a Washington State municipal corporation

By \_\_\_\_\_

Printed name : \_\_\_\_\_

Title : \_\_\_\_\_

BUYER:

Bluefield Holdings, Inc., a Nevada corporation

By \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT A

### Legal Description of Property

#### PARCEL I:

A portion of Lot 4, Block 409, Seattle Title Lands in the Northwest quarter of Section 18, Township 24 North, Range 4 East of the Willamette Meridian, in King County, Washington, described as follows:

Beginning at the Northeasterly corner of said Block 409; thence South  $42^{\circ}15'$  East 296.223 feet, along the Northeasterly line of said Block 409, to the true point of beginning, said point begin the most Northerly corner of a right of way deeded to the Northern Pacific Railway Company by Deed recorded January 30, 1929 as Recording No. 2515025; thence along a curve to the left having a uniform radius of 623.805 feet, along said right of way, the center of which curve bears South  $23^{\circ}30'26''$  East 623.805 feet from said true point of beginning a distance of 47.811 feet to an intersection with the South line of said Lot 4, from which point of intersection the center of said curve bears South  $27^{\circ}53'55''$  East 623.805 feet; thence West, along the South line of said Lot 4, 140.745 feet to the Southwesterly corner of said lot; thence North  $42^{\circ}15'$  West 40.528 feet to the Northwesterly corner of the South half of said Lot 4; thence East 202.643 feet, along the North boundary line of the South half of said Lot 4, to the Northeasterly line of said Lot 4; thence South  $42^{\circ}15'$  East 12.52 feet to the true point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Seattle by Special Warranty Deed recorded December 18, 1980 as Recording No. 8012180731.

#### PARCEL II:

A portion of Lot 5, Block 409, Seattle Title Lands in the Northwest quarter of Section 18, Township 24 North, Range 4 East of the Willamette Meridian, in King County, Washington, described as follows:

Beginning at the Northwesterly corner of said Lot 5; thence East 140.745 feet, along the North line of said Lot 5, to an intersection with a curve on the Northerly line of a right of way deeded to the Northern Pacific Railway Company by Deed recorded January 30, 1929 as Recording No. 2515025, from which point of intersection the center of which curve bears South  $27^{\circ}53'55''$  East 623.805 feet; thence in a Southwesterly direction along said curve to the left, having a uniform radius of 623.805 feet, a distance of 105.755 feet to an intersection with the Southwesterly margin of said Lot 5, from which point of intersection the center of said curve bears South  $37^{\circ}36'43.5''$  East 623.804 feet; thence North  $42^{\circ}15'$  West 77.2089 feet, along the Southwesterly margin of said Lot 5, to the point of beginning.

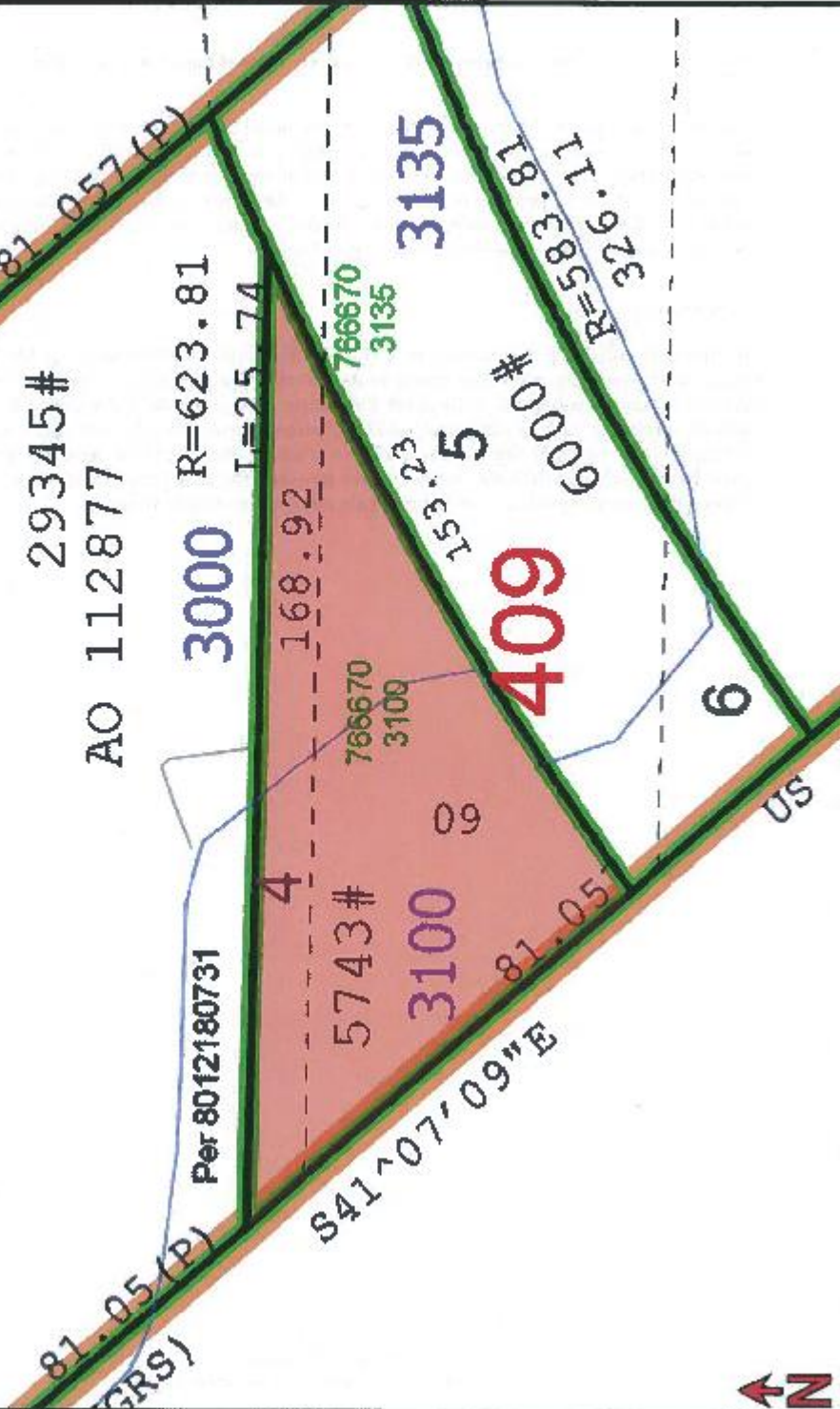
**EXHIBIT B**

[See attached]



Site Map

OVERHEAD BRIDGE & GMP



**EXHIBIT C**

**SPECIAL WARRANTY DEED**

**After recording return to:**

Bluefield Holding Inc.  
\_\_\_\_\_

Attn: \_\_\_\_\_

Document Title: Special Warranty Deed

Grantor's Name: Port of Seattle, a Washington State municipal corporation

Grantee's Name: Bluefield Holding Inc., a Nevada corporation

Abbreviated Legal: \_\_\_\_\_

Assessor's Tax Parcel Number: \_\_\_\_\_

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED (this "Deed") is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, between the **Port of Seattle**, a Washington State municipal corporation ("Grantor"), and **Bluefield Holding Inc.**, a Nevada corporation ("Grantee").

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and No/100 dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto Grantee, its successors and heirs and assigns forever, all the real property, located in the County of King, State of Washington, described as follows:

See Exhibit A attached hereto.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversions, remainder and remainders, rents, issues, and profits thereof, and all the estate, right, interest, claim and demand whatsoever of Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto Grantee, its successors and assigns. And Grantor, for itself and its successors and assigns, does covenant and agree that it shall and will WARRANT AND

FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof by, through, or under Grantor, subject to rights reserved in Federal patents or State deeds, buildings or use restrictions general to the district, building and zoning regulations, and excepting all items of record and Permitted Exceptions attached hereto as Exhibit B.

IN WITNESS WHEREOF, Grantor has executed this deed on the date first written above.

GRANTOR:

**Port of Seattle**, a Washington State municipal corporation.

By: \_\_\_\_\_  
Theodore J. Fick  
Chief Executive Officer

STATE OF WASHINGTON    )  
  : ss.  
COUNTY OF KING        )

I certify that I know or have satisfactory evidence that \_\_\_\_\_ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ of the PORT OF SEATTLE, a municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Print Name: \_\_\_\_\_

EXHIBIT A  
to  
Special Warranty Deed

Legal Description of the Property

PARCEL I:

A portion of Lot 4, Block 409, Seattle Title Lands in the Northwest quarter of Section 18, Township 24 North, Range 4 East of the Willamette Meridian, in King County, Washington, described as follows:

Beginning at the Northeasterly corner of said Block 409; thence South 42°15' East 296.223 feet, along the Northeasterly line of said Block 409, to the true point of beginning, said point begin the most Northerly corner of a right of way deeded to the Northern Pacific Railway Company by Deed recorded January 30, 1929 as Recording No. 2515025; thence along a curve to the left having a uniform radius of 623.805 feet, along said right of way, the center of which curve bears South 23°30'26" East 623.805 feet from said true point of beginning a distance of 47.811 feet to an intersection with the South line of said Lot 4, from which point of intersection the center of said curve bears South 27°53'55" East 623.805 feet; thence West, along the South line of said Lot 4, 140.745 feet to the Southwesterly corner of said lot; thence North 42°15' West 40.528 feet to the Northwesterly corner of the South half of said Lot 4; thence East 202.643 feet, along the North boundary line of the South half of said Lot 4, to the Northeasterly line of said Lot 4; thence South 42°15' East 12.52 feet to the true point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Seattle by Special Warranty Deed recorded December 18, 1980 as Recording No. 8012180731.

PARCEL II:

A portion of Lot 5, Block 409, Seattle Title Lands in the Northwest quarter of Section 18, Township 24 North, Range 4 East of the Willamette Meridian, in King County, Washington, described as follows:

Beginning at the Northwesterly corner of said Lot 5; thence East 140.745 feet, along the North line of said Lot 5, to an intersection with a curve on the Northerly line of a right of way deeded to the Northern Pacific Railway Company by Deed recorded January 30, 1929 as Recording No. 2515025, from which point of intersection the center of which curve bears South 27°53'55" East 623.805 feet; thence in a Southwesterly direction along said curve to the left, having a uniform radius of 623.805 feet, a distance of 105.755 feet to an intersection with the Southwesterly margin of said Lot 5, from which point of intersection the center of said curve bears South 37°36'43.5" East 623.804 feet; thence North 42°15' West 77.2089 feet, along the Southwesterly margin of said Lot 5, to the point of beginning.

EXHIBIT B  
to  
Special Warranty Deed

Permitted Exceptions

1. Any claim that any portion of the land is below the ordinary high water mark.
2. Any claim that any portion of the land is below the ordinary high water mark.
3. Any question as to the true location of the lateral boundaries of the West Waterway.
4. Any lien or liens that may arise or be created in consequence of or pursuant to an act of the legislature of the State of Washington entitled "An Act prescribing the way in which waterways for the uses of navigation may be excavated by private contract, providing for liens upon lands belonging to the state, granting rights of way across lands belonging to the State", approved **March 9, 1893**.
5. Rights of the general public to the unrestricted use of all the waters of a navigable body of water not only for the primary purpose of navigation, but also for corollary purposes; including (but not limited to) fishing, boating, bathing, swimming, water skiing and other related recreational purposes, as those waters may affect the tidelands, shorelands or adjoining uplands and whether the level of the water has been raised naturally or artificially to a maintained or fluctuating level, all as further defined by the decisional law of this state. (Affects all of the premises subject to such submergence)
6. Easement, including terms and provisions contained therein:  
Recording Information: November 20, 1957 as Recording No. 4851993 In Favor of:  
Pacific Telephone & Telegraph Company  
For: Ingress and egress to maintain and repair submarine cable
7. The terms and provisions contained in the document entitled "Notice of Consent Decree and Right of Access" recorded August 21, 1996 as Recording No. 9608211528 of Official Records.
8. The public records do not show any means of ingress and egress to and from the land, and by reason thereof, no assurance is provided hereunder of a right of access to and from the land.
9. The terms and provisions contained in the document entitled "Harbor Island Soil and Groundwater Operable Unit Environmental Covenant (Non-Capped Property)" recorded October 21, 2015 as Recording No. 20151021001212 of Official Records.