



EXCLUSIVE NEGOTIATION AGREEMENT

between

Moscow Urban Renewal Agency

and

Biketronics, Inc

For the development of:

Lots 3 & 4, Block 2

Alturas Technology Park, Phase II
Moscow, Idaho

November 17, 2010

EXCLUSIVE NEGOTIATION AGREEMENT

This EXCLUSIVE NEGOTIATION AGREEMENT (hereinafter "Agreement" or "ENA") is entered into this 17th day of November, 2010, by and between the MOSCOW URBAN RENEWAL AGENCY of the City of Moscow, Idaho, a public body, corporate and politic (hereinafter "Agency"), organized pursuant to the Idaho Urban Renewal Law, Title 50, Chapter 20, Idaho Code, as amended (hereinafter the "Law"), and undertaking projects under the authority of the Local Economic Development Act of 1988 as amended (hereinafter the "Act"), and BIKETRONICS, INC, or its assigns (hereinafter "Developer"), collectively referred to as the "Parties" and each individually as "Party," on the terms and provisions set forth below.

RECITALS

WHEREAS, Agency, an independent public body, corporate and politic, is an urban renewal agency created by and existing under the authority of the Law and the Act; and

WHEREAS, the City of Moscow, Idaho adopted its Ordinance No. 2005-18 on June 20, 2005, approving the Second Amended and Restated City of Moscow, Idaho Research and Technology Urban Renewal/Competitively Disadvantaged Border Community Area Plan 2005 (hereinafter the "Plan"), which includes the plans for disposition and development of lots within the plat for Alturas Technology Park, Phase II of the City of Moscow, Latah County, Idaho (hereinafter the "Project Area"); and

WHEREAS, Agency currently owns six (6) lots located in the Project Area and Agency seeks to encourage development in conformance with the Plan through disposition and development of all remaining lots within the Project Area; and

WHEREAS, Agency has published a Request for Proposals for Disposition of lots within the Project Area in conformance with the Law and the Act (hereinafter the "Request for Proposals"); and

WHEREAS, Developer has submitted a complete and timely response to Agency's Request for Proposals for the disposition and development of Lots 3 & 4, Block 2 of the Project Area (hereinafter referred to as the "Property");

NOW, THEREFORE, Agency and Developer hereby agree as follows:

AGREEMENT

1. NEGOTIATIONS.

1.1 GOOD-FAITH NEGOTIATIONS. Agency and Developer agree for the Negotiation Period set forth below to negotiate diligently and in good faith to prepare a Disposition and Development Agreement ("DDA") to be considered for execution between Agency and Developer, in the manner set forth herein, with respect to the development of the Property.

The Property is more particularly described in Exhibit "A" attached hereto. Agency agrees for the period set forth below not to negotiate with any other person or any other entity regarding the development of the Property.

1.2 NEGOTIATION PERIOD. The duration of this Agreement (the "Negotiation Period") shall continue from the execution of this Agreement by Agency for a period of ninety (90) days. If, upon expiration of the Negotiation Period Developer has not signed and submitted a DDA to the Agency, then this Agreement shall automatically terminate. If a DDA is so signed and submitted by Developer to Agency on or before expiration of the Negotiation Period, then this Agreement and the Negotiation Period herein shall be extended without further action by Agency for a period not to exceed sixty (60) days from the date of such submittal during which time Agency shall take all steps legally necessary to: (1) consider the terms and conditions of the proposed DDA; (2) if appropriate, take the actions necessary to authorize Agency to enter into the DDA; and (3) execute the DDA. If Agency has not executed the DDA within sixty (60) days from the date such DDA is submitted, then this Agreement shall automatically terminate. Developer acknowledges that prior to the execution of the DDA, Agency and Developer will need to proceed through the disposition process imposed upon Agency pursuant to the Law and the Act. Agency must provide thirty (30) days' notice of such DDA and shall consider the financial and legal ability of Developer to carry out its proposal. The Agency may accept such proposal as it deems to be in the best public interest and in furtherance of the purposes of the Law, the Act, and the Plan. Selection by the Agency of a different developer shall not impose any liability upon the Agency other than what is defined in this Agreement. The Parties agree to consider reasonable requests for extensions of time of the Negotiation Period and of the approval period for action and approval by Agency; provided, however, Agency may, at its discretion, require Developer to pay an extension fee for any such extension requested by Developer. If the negotiations do not result in an executed DDA, Developer shall submit to Agency a summary of its findings and determinations regarding the proposed development. If this Agreement is terminated per this section, Developer shall not seek reimbursement for costs and expenses from Agency.

1.3 DEPOSIT. Developer agrees to provide a deposit in the amount of Two Thousand and no one/hundredths dollars (\$2,000.00) to enter into an agreement to negotiate exclusively with Agency with regards to the Property. In the event Developer has not continued to negotiate diligently and in good faith, Agency shall give written notice thereof to Developer, who shall then have five (5) working days to commence negotiating in good faith. Following the receipt of such notice and the failure of Developer to thereafter commence negotiating in good faith within such five (5) working days, this Agreement may be terminated by Agency. In the event of such termination by the Agency, Agency shall retain the deposit, and neither Party shall have any further rights against or liability to the other under this Agreement, save and except the right of Developer to contest such action by Agency. In the event Agency has not continued to negotiate diligently and in good faith, Developer shall give written notice thereof to Agency, which shall then have five (5) working days to commence negotiating in good faith. Following the receipt of such notice and the failure of Agency to thereafter commence negotiating in good faith within such five (5) working days, this Agreement may be terminated by Developer. In the

event of such termination by Developer, Agency shall immediately return the entire deposit to Developer, and neither Party shall have any further rights against or liability to the other under this Agreement. Upon automatic termination of this Agreement at the expiration of the Negotiation Period or any extension thereof or other termination, then concurrently therewith, the deposit shall be paid by Agency to Developer, and neither Party shall have any further rights against or liability to the other under this Agreement. If a DDA has been executed by the Agency and Developer, the DDA shall thereafter govern the rights and obligations of the Parties with respect to the development of the Property. The deposit shall then be applied against the purchase price for the Property as determined by the DDA.

2. DEVELOPMENT CONCEPT.

2.1 SCOPE OF DEVELOPMENT. Within the time set forth in Exhibit B, Schedule of Performance, Developer shall submit to Agency, Developer's specific proposed scope of development regarding the use of the Property (hereinafter referred to as the "Project"). Upon Agency's execution of this Agreement, Developer shall begin immediately the process of preparing a development plan for the Property ("Development Plan"). The Development Plan shall include basic concept drawings for the Project and an implementation program including scheduling. Specific parts of the Development Plan will include, but not be limited to, perspective renderings, site plan, elevations/sections, narrative description, and critical path analysis. The critical path analysis will cover the entire Property development through completion, including occupancy. Submittal of the Development Plan initiates a two-phase review process outlined as follows:

Phase 1: Conditional approval of the initial plan submittal acknowledges Agency's endorsement of the Development Plan for the described Project. Developer is encouraged to refine and supplement the Development Plan submittals and to work with Agency toward successful completion of the second review, if required, which will culminate in compliance with the provisions of the Moscow City Zoning Ordinance and related local government requirements.

Phase 2: Within the times set forth in the Schedule of Performance, Agency shall either approve or disapprove the Development Plan. In the event the Development Plan and submittal are initially disapproved, Agency shall set forth the reasons for disapproval. Developer shall then have thirty (30) days to resubmit information to satisfy the reasons for disapproval; provided, however, in the event the Development Plan is again disapproved, this Agreement shall be terminated.

In the event at any time during the Negotiation Period the Developer determines that it is not feasible to proceed with development of the Property, this Agreement shall be terminated upon ten (10) days' written notice to Agency. Likewise, in the event at any time during the Negotiation Period the Agency determines that it is not feasible to proceed to the development of the Property, this Agreement shall be terminated upon ten (10) days' written notice to Developer. In the event of such termination, Agency shall return the deposit to Developer, and neither Party shall have any further rights against or liability to the other under this Agreement. Developer acknowledges and consents that in the event

this Agreement is terminated for nonperformance by Developer, or Developer's conclusion that the Project is not feasible, or the Project is terminated for any reason hereunder, Agency has the right and authority to enter into an exclusive right to negotiate agreement with any other interested developer.

2.2 CONSISTENT PLANS. Developer's Development Plan shall recognize and be consistent with Agency's Plan, subject to the provisions defined in this Agreement.

2.3 COORDINATION WITH ADJACENT DEVELOPMENT. During the Negotiation Period, Developer shall use its best efforts to coordinate its Development Plan and design with the adjacent development.

2.4 PROGRESS REPORTS. Upon reasonable notice, as from time to time reasonably requested by Agency, Developer agrees to make progress reports advising Agency on all matters and all studies being made by Developer.

3. PURCHASE PRICE. The purchase price to be paid by Developer under the DDA will be established by Agency after preliminary negotiations with Developer. Such purchase price shall be established by Agency during the Negotiation Period. Based on the Development Plan, Agency will prepare and provide Developer with a reuse appraisal. Such purchase price will be based upon such factors as market conditions, density of development, costs of development, risks of Agency, risks of Developer, Developer participation in the funding of public facilities and amenities, and estimated or actual Developer profit. Developer recognizes that under the Law, the purchase price cannot be less than the fair value for uses in accordance with the Plan. The purchase price and DDA shall be subject to approval by Agency. During the Negotiation Period, Agency and Developer will negotiate the schedule for the disposition and development of the Property.

4. DEVELOPER'S RESPONSIBILITIES.

4.1 NATURE OF THE DEVELOPER. Developer is Biketronics, Inc, or its assigns. Notwithstanding any other provision of this Agreement, Developer reserves the right, at Developer's discretion and without prior written consent of Agency, to join and associate with other entities for the purpose of acquiring and developing the Property, provided that Developer maintains operating control of such entities and remains fully responsible to Agency as provided in this Agreement with respect to the Property. Wherever the term "Developer" is used herein, such term shall include any permitted nominee or assignee as herein provided.

4.2 PRINCIPAL OFFICE OF THE DEVELOPER. The mailing address of Developer is Biketronics, Inc., 630 N. Almon St., Suite 140, Moscow, ID 83843.

4.3 DEVELOPER'S DEVELOPMENT TEAM. "Development Team" is defined as the Developer together with all contracted professionals and principal associates identified pursuant to this Section. The Developer's architect, attorney, project manager and other

members of the development team will be identified at a later date and will be incorporated into the DDA.

4.4 DEVELOPER'S LEGAL COMPLIANCE. Developer recognizes it will be required to comply with all applicable laws, including all applicable federal and state labor standards; antidiscrimination standards; affirmative action standards; nondiscrimination and non-segregation standards; laws; pre-existing legal, use, and Alturas Phase I and Phase II codes, covenants and restrictions; and regulations in development, rental, sale, or lease of the Property.

4.5 DEVELOPER'S FINANCIAL CAPACITY. Developer acknowledges that the DDA will require that Developer submit to Agency satisfactory evidence of Developer's plan for financing the Project sufficient to permit Agency to determine Developer's ability to finance and complete the Project. The timing of submittal and forms of such evidence of financing shall be addressed in the DDA. The evidence of financing may include evidence of the approval for construction financing for the Developer's portions of the development of and long-term financing for the Property.

5. AGENCY'S RESPONSIBILITIES.

5.1 THE URBAN RENEWAL PLAN. This Agreement and any DDA agreed to by the Parties are subject to the provisions of the Plan as recommended by Agency and approved by Moscow City Council effective upon publication following June 20, 2005 for the Project Area, as it may subsequently be amended, and the Plan is hereby incorporated herein by reference and made a part hereof as though fully set forth herein. The Plan references certain planning documents which have been prepared and adopted by Agency:

Document 1: Second Amended and Restated City of Moscow, Idaho Research and Technology Urban Renewal/Competitively Disadvantaged Border Community Area Plan 2005.

Document 2: Alturas Technology Park Phase II: Declaration of Protective Covenants, Conditions and Restrictions.

5.2 AGENCY ASSISTANCE AND COOPERATION. Agency shall cooperate fully in providing Developer with appropriate information and assistance.

5.3 REAL ESTATE COMMISSIONS. Agency shall not be liable for any real estate commission or brokerage fees which may arise from this Agreement. Agency represents that it has engaged no broker, agency, or finder in connection with this transaction, and Developer agrees to hold Agency harmless from any claim by any broker, agent, or finder retained by Developer.

5.4 LIMITATIONS AND CONDITIONS OF THIS AGREEMENT. By its execution of this Agreement, Agency is not committing itself to or agreeing to undertake:
(a) disposition of land to Developer; or (b) any other acts or activities requiring the

subsequent independent exercise of discretion by Agency, the City, or any agency or department thereof; or (c) any other acts or activities requiring the subsequent independent exercise of discretion by any federal or state agency, including, but not limited to, environmental clearance and historic preservation approval. This Agreement does not constitute a disposition of property or exercise of control over property by Agency or City of Moscow, Idaho. Execution of this Agreement by Developer is merely a submittal to allow the Agency to comply with disposition procedures required by the Law. Developer recognizes that, prior to execution of the DDA by Agency, Agency must proceed with reasonable public notice, and selection procedures as required by law. Such procedures will include public notice by publication in *The Moscow Pullman Daily News* in accordance with the Law.

6. GENERAL PROVISIONS.

6.1 REMEDIES AND DAMAGES. Notwithstanding anything to the contrary contained in this Agreement, Developer's obligations hereunder are nonrecourse, and Agency's only recourse and security for those obligations shall be the recovery of possession of the Property, the recovery of attorney fees and costs incurred in the recovery of the Property, and termination of this Agreement. Nothing stated in this section shall be deemed to have effected a release or impairment of Agency's fee title to the Property. If a dispute arises out of or relates to this Agreement or the breach thereof and if said dispute cannot be settled through direct discussions, the Parties agree to first endeavor to settle the dispute in an amicable manner by mediation or other process of structured negotiation under the auspices of a nationally or regionally recognized organization providing such services in the northwestern states or otherwise, as the Parties may mutually agree before resorting to litigation or to arbitration. In the event of any action or proceeding described in this section between any of the Parties to this Agreement to enforce any provision of this Agreement or to protect or establish any right or remedy of any Party hereunder, the unsuccessful Party to such proceeding shall pay the prevailing Party all costs and expenses, including reasonable attorney fees incurred therein by such prevailing Party (including such costs and fees incurred on appeal), and if such prevailing Party shall recover judgment in any such action or proceeding, such costs, expenses, and attorney fees shall be included in and as a part of such judgment.

6.2 NO RECORDATION. In no event shall any Party record this Agreement or any memorandum hereof or otherwise encumber the Property by reason of the selection process, this Agreement, or the negotiations contemplated hereby.

6.3 FORCE MAJEURE. Time periods provided for performance of the obligations set forth in this Agreement shall be extended for a period or periods of time equal to any period or periods of delay caused by strikes, lockouts, fire, or other casualty, litigation by third parties, the elements or acts of God, or other causes, other than financial, which are beyond the reasonable control of the Party having the relevant obligation.

6.4 SUCCESSORS AND ASSIGNS. Except as specifically authorized in this agreement, no Party may assign or delegate its obligations under this Agreement without the consent of

each other Party hereto, which consent may be withheld in the discretion of that Party. Except as otherwise set forth in this Agreement, the terms, covenants, conditions, and agreements contained herein shall be binding upon and inure to the benefit of the heirs, personal representatives, successors, and assigns of the Parties hereto.

6.5 NUMBER AND GENDER. In constructing the provisions of this Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

6.6 NO THIRD-PARTY BENEFICIARY. This Agreement is not intended to create, does not create, nor shall it be in any way interpreted or construed to create, any third-party beneficiary rights in any person not a Party hereto unless otherwise expressly provided herein.

6.7 COUNTERPARTS. This Agreement may be executed in counterparts, and each counterpart shall then be deemed for all purposes to be an original, executed agreement with respect to the Parties whose signatures appear thereon.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set opposite their signatures. The effective date of this Agreement shall be the date this Agreement is signed by Agency.

Dated this 17 day of November, 2010.

AGENCY:

MOSCOW URBAN RENEWAL AGENCY
MOSCOW, IDAHO

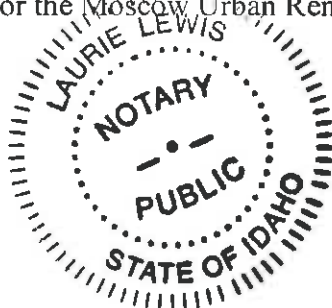
By John McCabe
John McCabe, Chair

Attest: Steve McGeehan
Steve McGeehan, Secretary

ACKNOWLEDGMENT

STATE OF IDAHO)
) ss.
COUNTY OF LATAH)

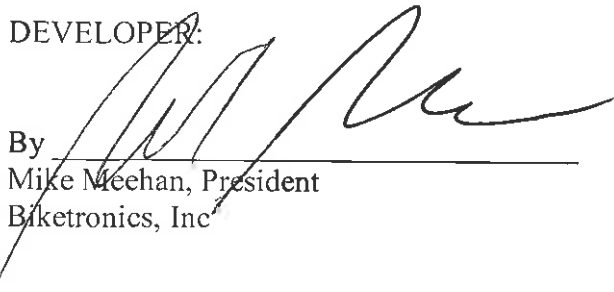
On this 17 day of November, 2010, before me, a Notary Public in and for said State, appeared John McCabe and Steve McGeehan, known to me to be the persons named above and acknowledged that they executed the foregoing document as duly authorized representatives for the Moscow Urban Renewal Agency of Moscow, Idaho.



Laurie Lewis
Notary Public for the State of Idaho
Residing at Moscow
My commission expires 8/30/13

Dated this 16 day of Nov, 2010.

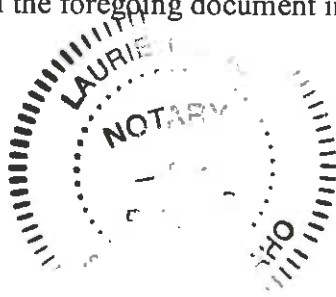
DEVELOPER:

By 
Mike Meehan, President
Biketronics, Inc

ACKNOWLEDGMENT

STATE OF IDAHO)
) ss.
COUNTY OF LATAH)

On this 16 day of November, 2010, before me, a Notary Public in and for said State, appeared Mike Meehan, known to me to be the person named above and acknowledged that he executed the foregoing document in his official capacity as President, Biketronics, Inc.



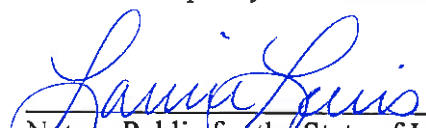

Notary Public for the State of Idaho
Residing at Moscow
My commission expires 8/30/13

EXHIBIT A
PROPERTY DESCRIPTION

Lots 3 & 4, Block 2, Alturas Business Park, Phase II, City of Moscow, Idaho. See plat filed as Latah County Idaho recording number 504085.

EXHIBIT B

SCHEDULE OF PERFORMANCE

ACTION	DATE
1. <u>Deposit</u> . The Developer shall deliver the Deposit to the Agency.	No later than November 17, 2010.
2. <u>Submittal of Information to Appraiser</u> . Developer shall submit all the required information to Agency for use in considering Developer's proposed development.	No later than January 20, 2011.
2. <u>Completion of Reuse Appraisal</u> . Agency appraiser shall complete the reuse appraisal.	No later than January 31, 2011.
4. <u>Submittal of Draft Disposition and Development Agreement (DDA)</u> . The Agency staff and Developer shall have completed a draft DDA in a sufficiently final form to permit review by the Agency Board and to proceed through the required notice and hearing process.	No later than February 10, 2011.
5. <u>DDA Consideration</u> . The Agency Board shall consider and approve if appropriate the DDA.	No later than February 20, 2011.