

Exhibit A to Ordinance

THIRD AMENDMENT
of
AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY
JEFFERSON WEST

THIS THIRD AMENDMENT OF AGREEMENT FOR DISPOSITION AND DEVELOPMENT OF PROPERTY JEFFERSON WEST ("**Third Amendment**") is made as of this ____ day of _____, 2013, by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon, acting by and through the PORTLAND HOUSING BUREAU, ("**PHB**") as successor in interest to the PORTLAND DEVELOPMENT COMMISSION ("**PDC**"), and E&F PROPERTIES, LLC, an Oregon limited liability company ("**E&F**")

RECITALS

A. PDC and E&F are parties to an Agreement for Disposition and Development of Property – Jefferson West (the "**DDA**"), dated April 30, 2007, pursuant to which, among other things, PDC agreed to convey and E&F agreed to acquire the land and buildings located at 1101-1135 SW Jefferson Street, the "**Property**", upon the terms and conditions set forth in the DDA.

B. PHB assumed responsibility for the DDA and took title to the Property pursuant to an Intergovernmental Agreement and Assignment and Assumption Agreement in July 2010.

C. The DDA, as amended, expires on March 31, 2013.

D. E&F desires to modify the DDA to make several minor changes, and to extend the schedule of performance to allow for the design and permitting schedule of the proposed development.

E. PHB is willing to enter into the amendment and as a condition of extending the schedule of performance PHB desires to raise the sales price for the property.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Third Amendment of DDA. Effective on the date first set forth above (the "**Effective Date**"), the DDA is amended as set forth below.

(a) Section 1.3 of the DDA is amended by deleting it in its entirety and replacing with the following language;

“ At Closing, Developer shall pay the Purchase Price for the Property in cash. The Purchase Price for the Property is Two Million Forty Thousand Dollars (\$2,040,000). If the date of conveyance occurs after the Effective Date of this Third Amendment, the Purchase Price will increase each month by 0.2917%, equivalent to an annual increase of 3.5%, until the date of transfer of title. The increase in Purchase Price becomes effective the first day of each month as illustrated below.

Price	Date	Monthly increase	Annual Increase
2,040,000	3/1/2013		3.5%
2,045,950	4/1/2013	5,950	3.5%
2,051,917	5/1/2013	5,967	3.5%
2,057,902	6/1/2013	5,985	3.5%
2,063,904	7/1/2013	6,002	3.5%
2,069,924	8/1/2013	6,020	3.5%
2,075,961	9/1/2013	6,037	3.5%
2,082,016	10/1/2013	6,055	3.5%
2,088,089	11/1/2013	6,073	3.5%
2,094,179	12/1/2013	6,090	3.5%
2,100,287	1/1/2014	6,108	3.5%
2,106,413	2/1/2014	6,126	3.5%
2,112,557	3/1/2014	6,144	3.5%

(b) Section 1.9 Performance Guaranty Fee is amended to replace the first two words of this Section from “At Closing” with “on or before August 15, 2014” and to add the following sentence to the end of the Section. *“Notwithstanding any approved assignment of E&F’s rights and obligations under the DDA, the Performance Guaranty Fee will be paid by E&F to PHB and will be returned to E&F upon PHB’s issuance of the Certificate of Completion.”*

(c) Section 3.2 is eliminated in its entirety, eliminating the PHB role in design approval.

(d) Section 3.3 shall be amended to change the Completion Date from August 1, 2013 to the completion date as defined in Exhibit B the “Schedule of Performance as Revised in the Third Amendment to the DDA” attached hereto.

(e) Section 9.1 shall be amended to eliminate the name of the PDC project manager.

(f) Section 9.3 Notices shall be amended to eliminate the persons named in the notice provisions and to replace them with the following:

In the case of the Developer,

In the case of the Molasky Group:

In the case of PHB:

Portland Housing Bureau
Attn: Barbara Shaw, Project Coordinator
421 SW 6th, Suite 500
Portland, Oregon 97204

With a copy to:
City Attorney Office
Attn: Trinh C. Tran
1221 SW 4th Avenue, Suite 430
Portland, OR 97201

(g) Section 9.4 is amended to eliminate the last sentence in 9.4.1 and replace it with the following; *"In particular, Developer shall use commercially reasonable efforts to utilize Minority Owned, Woman Owned and/or Emerging Small Businesses as subcontractors in the amount of 20% of the Project's Construction Cost and shall participate with the City's Procurement office at the City's Office of Finance and Management under the program guidelines and general conditions that are in effect at the time of the Closing."*

(h) Exhibit B to the DDA (the Revised Schedule of Performance) is replaced with the Exhibit B (the "Schedule of Performance as Revised in the Third Amendment to the DDA") attached hereto.

(i) Exhibit C to the DDA is amended to replace the final sentence: "The Project will include structure parking if not subterranean /underground parking." with *"The DDA makes no requirements related to parking or design, deferring to the City's Bureau of Development Services."*

2. Estoppel. Within fifteen (15) days after a request by Developer, PDC shall deliver a signed statement certifying to Developer (and such other third parties as may be commercially reasonable) as to whether or not any defaults exist under the DDA and whether the

DDA (as amended hereby) is unmodified and in full force and effect. Any such certification shall be made subject to "PHB's knowledge," as such phrase is defined in the DDA.

3. Counterparts. This Third Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together will constitute one and the same instrument. The signature page of any counterpart may be detached there from without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto except having additional signature pages executed by other parties to this Third Amendment attached thereto.

4. Ratification. Except as herein amended, the DDA is hereby ratified and confirmed and all other terms of the DDA shall remain full force and effect, unaltered and unchanged by this Third Amendment.

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the date and year first above written.

CITY OF PORTLAND, a municipal corporation in the State of Oregon, acting by and through the Portland Housing Bureau

By: _____
Name: Traci Manning
Title: Director

E&F PROPERTIES, LLC, an Oregon limited liability company

By: _____
Name: Mark D. Fraser
Title: Authorized Member

APPROVED AS TO FORM

By: _____
Name: _____
Title: _____

*EXHIBIT A***Schedule of Performance****as Revised in the Third Amendment to the DDA**

TASK	DUE DATE
E & F Properties to provide 90% Schematic Drawings & Project Budget	March 15, 2013
E & F Submits for Design Review (at 50% Design Development Documents)	May 1, 2013
Upon receipt of Design Review Approval, E & F Submits Performance Guaranty Fee	August 1, 2013
E & F Properties to provide 50% Construction Documents	September 1, 2013
E & F Properties to provide Final Construction Plans and Specifications & Project Budget	October 1, 2013
E & F Properties to provide evidence/commitment of construction financing for project, provides Articles of Organization, Operating Agreement, Certificate of Good Standing, and Authorizing Resolution, secures Building Permits (Shoring & Excavation at minimum) from BDS	November 15, 2013
PHB Closing/Conveyance of Property, PHB to issue Owner's Standard Title Insurance Policy	December 15, 2013
Construction Complete	December 31, 2015
E & F Properties requests Certificate of Completion from PHB	Upon issuance of Certificate of Occupancy for Project
PHB issues Certificate of Completion, returns Performance Guaranty Fee to E & F	15 days following Certificate of Occupancy