

SIXTH AMENDMENT
TO
SOUTH WATERFRONT CENTRAL DISTRICT PROJECT
DEVELOPMENT AGREEMENT

Dated: December 17, 2004

AMONG: PORTLAND DEVELOPMENT COMMISSION,
in its capacity as the urban renewal agency and as
agent for: Portland Office of Transportation,
Bureau of Environmental Services,
Office of Management and Finance,
and Portland Parks and Recreation (“PDC”)

: OREGON HEALTH AND SCIENCE UNIVERSITY,
a public corporation of the State of Oregon (“OHSU”)

: RIVER CAMPUS INVESTORS, LLC,
an Oregon limited liability company (“RCI”)

: NORTH MACADAM INVESTORS, LLC,
an Oregon limited liability company (“NMI”)

AND : BLOCK 39, LLC,
an Oregon limited liability company (“Block 39”)

RECITALS

A. On behalf of the City of Portland, the Portland Development Commission (“PDC”) negotiated the South Waterfront Central District Project Development Agreement (“Original DA”) with OHSU, RCI, NMI and Block 39. The DA (defined below) provides, among other things, for the development of improvements in a certain project area subject to the South Waterfront Plan of the City of Portland. The DA will facilitate development of the Project Area described therein as a mixed-use neighborhood, including commercial, retail, institutional and housing uses.

B. The Original DA was authorized by PDC on August 14, 2003, approved by the Portland City Council on August 15, 2003, and signed by all Parties on August 22, 2003. The Original DA has been amended by the First Amendment to the South Waterfront Central District Project Development Agreement dated February 18, 2004, the Second Amendment to the South Waterfront Central District Project Development Agreement dated April 1, 2004, the Third Amendment to South Waterfront Central District Project Development Agreement dated June 25, 2004 (the “Third Amendment”), the Fourth Amendment to South Waterfront Central District Project Development Agreement dated October 29, 2004, and by the Fifth Amendment

to South Waterfront Central District Project Development Agreement dated November 24, 2004. The Original DA, as amended by the first, second, third, fourth and fifth amendments, is referred to herein as the "DA."

C. The DA will terminate unless certain Basic Contingencies to the Parties' performance are satisfied or waived by December 17, 2004. The Parties recognize that the schedule for satisfying or waiving all Basic Contingencies is no longer realistic and are diligently negotiating a new Schedule that recognizes the significant progress made to date and to be made in the immediate future and sets forth new deadlines for items not yet satisfied or waived. The Parties acknowledge that it is desirable to revise the Final Termination Date to allow additional time to reach agreement on Schedule revisions for the remaining Basic Contingencies and that the extensions set forth in this Amendment are not pursuant to the Unavoidable Delay provisions of the DA.

D. RCI, NMI, OHSU and Block 39 desire PDC to take on certain obligations under the DA even though not all of the Basic Contingencies have been satisfied or waived. PDC has agreed that, with the exception of funds required for the Street Improvement Project, PDC will not fund its obligations under the DA unless a Gap Payment obligation is in place to secure the amount funded, consistent with the original intention of the DA.

E. The Parties now desire to make the changes necessary to the DA to extend the Final Termination Date and to modify the Parties' obligations with respect to the Neighborhood Park, all on the terms and conditions set forth in this Sixth Amendment to South Waterfront Central District Project Development Agreement (this "Amendment").

AGREEMENT

Now, therefore, in consideration of the mutual benefits to be realized by the Parties following amendments to the DA, the following sections and subsections of the DA shall be modified as shown below. Double-underlining indicates language added by this Amendment to existing language in the DA; ~~stricken~~ words indicate text deleted from the DA. Unless otherwise defined herein, capitalized terms in this Agreement have the meanings set forth in the DA.

1. Section 5.1.2 of the DA is hereby revised as follows:

5.1.2 The Schedule set forth a date by which each Basic Contingency must be satisfied or waived. Each of the Parties benefited by each Basic Contingency shall determine whether or not a Basic Contingency has or has not been satisfied or will or will not be waived by the date set forth in the Schedule for that determination. The Schedule provides that the latest date for the satisfaction of the last Basic Contingency is January 28, 2005 ~~September 30, 2004~~. The Parties acknowledge that as the Final Termination Date has been extended pursuant to the Fourth and Fifth Amendments, the corresponding dates for the satisfaction of then-remaining Basic Contingencies has been extended for the same time period.

2. Section 5.5.2 of the DA is hereby revised as follows:

5.5.2 Final Termination Date

If all of the Basic Contingencies have not been satisfied, waived or otherwise resolved pursuant to this Agreement by January 28, 2005 ~~December 17, 2004~~ (the "Final Termination Date"), then this Agreement shall terminate on that date, unless the failure of satisfaction of the Basic Contingencies is the result of an Unavoidable Delay. If the Final Termination Date is extended for a period of Unavoidable Delay, the maximum cumulative period of Unavoidable Delay(s) shall be no longer than 360 days.

3. Section 6.4.1 of the DA is hereby revised as follows:

6.4.1 Land Acquisition and Initial Neighborhood Park Improvements

The Parties intend that Blocks 32 and 36 be acquired and used as a public park with, potentially, a below-grade parking structure to be built by OHSU. ~~PDC will acquire possession of Blocks 32 and 36 using PDC's normal and customary methods for acquisition of property by not later than December 31, 2004. Without regard to whether all Basic Contingencies are satisfied (or waived) or not, PDC (or the City or the Parks Bureau, as appropriate), subject to any legal constraints related to PDC's condemnation proceedings, will acquire possession of Blocks 32 and 36 and construct the initial park improvements thereon as follows: (a) by December 31, 2004, PDC will file a motion for a possession hearing to acquire the Neighborhood Park or shall have otherwise resolved any and all issues related to PDC's right to possession of such property; (b) resolution of issues related to PDC taking possession of the Neighborhood Park may permit Public Storage to occupy the Neighborhood Park until December 31, 2005; (c) the City, PDC or the Parks Bureau will have abatement, demolition and construction contracts related to the Neighborhood Park Project in place by December 15, 2005; (d) PDC, the City or the Parks Bureau will issue a notice to proceed for abatement work not later than January 15, 2006; (e) PDC, the City or the Parks Bureau will issue a notice to proceed for demolition of all buildings on the Neighborhood Park and for construction of the initial improvements thereon in accordance with Section 2.2.11 (collectively, the "Public Park Improvements") by February 15, 2006; and (f) the City, PDC or the Parks Bureau will complete the Public Park Improvements by July 1, 2006. Thereafter, the City, PDC or the Parks Bureau will maintain the Public Park Improvements in accordance with City park standards. Notwithstanding legal constraints related to PDC's condemnation proceedings or anything to the contrary contained herein, PDC's obligation to complete the Phase I Neighborhood Park Project as described in Section 2.2.11 shall be specifically enforceable by the other Parties hereto. If PDC intends to acquire Blocks 32 and 36 at a price greater than its appraised value, PDC will consult with OHSU regarding the acquisition price.~~

4. Section 6.4.4 of the DA is hereby deleted in its entirety. For reference purposes, the deleted text follows.

~~6.4.4 Construction of Neighborhood Park~~

~~————PDC and the Parks Bureau will undertake and complete the Phase I Neighborhood Park Project according to the Schedule and subject to Section 6.4.5.~~

5. Section 6.4.5 of the DA is hereby deleted in its entirety. For reference purposes, the deleted text follows.

~~6.4.5. Project Contingencies to the Phase 1 Neighborhood Park Project Demolition and Initial Improvements ——— PDC or the Parks Bureau will commence the demolition and initial improvement activities in the Phase 1 Neighborhood Park Project three (3) months prior to substantial completion of construction of at least one hundred fifty (150) taxable residential units on any of Blocks 31, 35, 38 and/or 39; provided that at least three hundred (300) taxable residential units will have been built in the Project Area by such substantial completion date. NMI (or the owner of any such Block) shall provide written notice to PDC of the anticipated date of substantial completion of construction of taxable residential units on the applicable Block at least six (6) months prior thereto. Such notice shall be signed by the project architect or accompanied by a separate certification from the architect confirming the anticipated substantial completion date. Once such notice is received by PDC, PDC shall immediately forward the notice to the Parks Bureau, and PDC or the Parks Bureau shall timely commence and diligently prosecute to completion the Neighborhood Park initial improvements.~~

6. The following new Section 18.8 is hereby added to the DA immediately following Section 18.7:

18.8 Gap Obligation Associated with Neighborhood Park

18.8.1 Neighborhood Park. If, and only if, the City funds the purchase of the Neighborhood Park prior to the date on which all Basic Contingencies are satisfied or waived, then a portion of NMI's potential liability to make Gap Payments will not be dependent upon the satisfaction or waiver of all Basic Contingencies. The amount of such Gap Payment obligation and the calculation of such amount is as follows:

Total TIF Projects (as set forth in the Third Amendment)	\$30,809,315
TIF portion of Neighborhood Park acquisition and initial improvement costs (actual City cost) and PP&L Reimbursement	\$5,202,000
Neighborhood Park acquisition and initial improvement and PP&L Reimbursement costs as a percentage of total TIF Projects	16.88%
Residential RMV necessary to generate \$30.8 million of TIF funding	\$288,200,000
Pro rata RMV for Neighborhood Park and PP&L Reimbursement Portion	\$48,661,140

If Gap Payments are triggered due to NMI's failure to deliver Projects that generate Target Tax Incremental Revenue in accordance with the Schedule, such Gap Payments will first be used to reimburse in the City in amounts equal to the PP&L Reimbursement (defined below) and then to costs associated with the Neighborhood Park acquisition and the construction of the initial improvements thereon.

18.8.2 No New Gap Obligation. The obligations set forth in this Section 18.8 are not new Gap Payment obligations. In contrast, the parties intend only that the timing of a portion of NMI's Gap Payment obligation become effective upon the City's purchase of the Neighborhood Park rather than upon the satisfaction or waiver of all Basic Contingencies. Notwithstanding anything to the contrary set forth herein, \$202,000 of the \$5,202,000 of costs set forth above are attributable to PDC's reimbursement of NMI for costs associated with the PP&L tower and transmission line relocation as contemplated by the Funding and Financing Plan (the "PP&L Reimbursement"). NMI's potential liability to make Gap Payments in an amount sufficient to cover the PP&L Reimbursement will not be dependent upon the satisfaction or waiver of all Basic Contingencies but will be triggered by PDC's payment of the PP&L Reimbursement to NMI, which payment shall be made within fifteen (15) days of receipt of an invoice from NMI.

18.8.3 Failure of City to Perform.

18.8.3.1 If the City fails to purchase the Neighborhood Park before all Basic Contingencies are satisfied or waived, then (i) NMI's liability for the portion of the Gap Payments described in this Section 18.8 that are attributable to PDC's costs associated with the Neighborhood Park shall never be triggered and (ii) the City's obligation to purchase the Neighborhood Park pursuant to Section 6.4.1 will be specifically enforceable by NMI. Notwithstanding the foregoing, nothing in this Section 18.8 shall be deemed to terminate or reduce NMI's Gap Payment and Additional Payment obligations described in Sections 18.2 and 18.7.

18.8.3.2 If the City purchases the Neighborhood Park but fails to begin or complete the Public Park Improvements, then NMI shall have the right to complete the same. If NMI exercises its right to complete the Public Park Improvements, then the City shall promptly (i) grant to NMI a license and all other rights necessary to enter upon the Neighborhood Park and complete such Public Park Improvements and (ii) reimburse NMI in an amount equal to the reasonable and actual hard and soft costs incurred by NMI in completing such Public Park Improvements. The City's failure to reimburse such sums to NMI within ten (10) days of the City's receipt of an invoice therefor shall, in addition to all other remedies available to NMI at law or in equity, entitle NMI to an offset against the portion of NMI's Gap Payment obligation attributable to the Neighborhood Park in an amount equal to the total reimbursement due NMI. If NMI does not exercise its right to complete the Public Park Improvements, then the City shall nevertheless have an obligation to complete the same, and such obligation will be specifically enforceable by NMI. The rights granted to NMI in this Section 18.8.4.2 shall be subject to the rights of third parties, if any, held pursuant to Section 35.390 of the Oregon Revised Statutes.

18.8.4 Survival. The obligations of the Parties set forth in this Section 18.8 shall survive a termination of the Development Agreement triggered by the failure of all Basic Contingencies to be timely satisfied or waived.

7. The definition of “Final Termination Date” as set forth in Exhibit C is hereby revised as follows:

“Final Termination Date” means ~~December 17, 2004~~ January 28, 2005.

8. General Provisions.

3.1 Effective Date. This Amendment is effective on the date first set forth above.

3.2 Complete Agreement. This Amendment is the complete agreement among the parties with respect to the subject covered by this Amendment, and it supersedes any prior agreements on the same subjects.

3.3 Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and when taken together shall constitute one and the same instrument, which instrument will become effective only upon execution of one or more counterparts by each of the parties hereto. Such execution may be evidenced by original or facsimile signatures.

3.4 Effect on DA. Except as modified by this Amendment, the DA remains in full force and effect.

*(Remainder of Page Intentionally Left Blank;
Signatures on Following Pages)*

IN WITNESS WHEREOF, the Parties have entered into this Amendment as of the day and year first set forth above.

PDC:

PORTLAND DEVELOPMENT COMMISSION

By: _____

Print Name: _____

Its: _____

Approved as to form:

Office of General Counsel

By: _____

Print Name: _____

Its: _____

OHSU:

OREGON HEALTH AND SCIENCE
UNIVERSITY, a public corporation of the State of
Oregon

By: _____

Print Name: _____

Its: _____

RCI:

RIVER CAMPUS INVESTORS, LLC, an Oregon
limited liability company

By: Williams & Dame Development, Inc., an
Oregon corporation, Manager

By: _____

Print Name: _____

Its: _____

NMI:

NORTH MACADAM INVESTORS, LLC, an
Oregon limited liability company

By: Williams & Dame Development, Inc., an
Oregon corporation, Manager

By: _____

Print Name: _____

Its: _____

BLOCK 39:

BLOCK 39, LLC, an Oregon limited liability company

By: Williams & Dame Development, Inc., an
Oregon corporation, Manager

By: _____

Print Name: _____

Its: _____