

PDC

PORTLAND DEVELOPMENT COMMISSION

DATE: January 9, 2008

TO: Board of Commissioners

FROM: Bruce A. Warner, Executive Director

SUBJECT: Report Number 08-02
Amended and Restated Disposition and Development Agreement with
One Waterfront Place LLC and Madrona Park LLC

EXECUTIVE SUMMARY

BOARD ACTION REQUESTED

Adopt Resolution No. 6550

ACTION SUMMARY

This resolution authorizes the Portland Development Commission (PDC), subject to PDC Board of Commissioners (Board) authorization, to execute an Amended and Restated Disposition and Development Agreement (Amended DDA) with 1201 Building LLC, which at time of DDA execution will likely have changed its name to One Waterfront Place, LLC. The terms outlined in the Amended DDA limit PDC investment in the overall project, build a public infrastructure amenity that will enhance community livability and economic viability, and leverage a \$90M to \$115M development that will generate, after construction, property tax over the next 10 years of \$10,137,459.

On August 9 2000, the Board adopted Resolution No. 5518, which authorized the Board Chair and Secretary to execute the Disposition and Development Agreement dated September 13, 2000 (the Original DDA), executed by and between PDC and 1201 Building LLC. The Original DDA provided for the sale of certain land owned by PDC along NW Naito Parkway, adjacent to the Broadway Bridge (the Property), located in the River District Urban Renewal Area (River District URA) to Madrona Park LLC, a wholly-owned affiliate of two Winkler companies, Winkler Family Holdings, Inc. and Winkler Development Corporation, for the construction of a new office tower, One Waterfront Place (the Original Project). The Property was purchased by Madrona Park LLC at the full market value of \$1,546,804 (the Purchase Price) on September 13, 2000.

The Amended DDA differs significantly from the Original DDA. The Original DDA obligates PDC to build and own a parking structure (the Parking Garage) that would support the Project and surrounding development. The Amended DDA will limit the use of the PDC owned property to a minimum 500 space Parking Garage with ground floor retail. The Amended DDA changes the construction and ownership of the Parking Garage to require the developer to build and own at a minimum 500 space Parking Garage on the PDC owned property. This change will convert the Parking Garage from public ownership to private ownership thereby generating new tax revenues. The Amended DDA meets and exceeds the Board's stated objectives at the July 11, 2007, Board meeting. At that meeting the Board authorized an extension of 120 days to allow PDC staff and 1201 Building LLC to address the following issues: renegotiation of the DDA to include, among other things, 1201 Building LLC's participation in PDC's Good Faith Effort Program, the Workforce Training

and Hiring Program, Green Building Policy Program Guidelines and other pertinent policies, DDA modifications that would minimize PDC's financial obligations, and, exploration of other development opportunities and other pertinent issues.

PUBLIC BENEFIT

The new Project consists of three components: (1) a 250,000 square foot office building, to be built on land that the Developer purchased from PDC for Fair Market Value of \$1,546,804 on September 13, 2000 (2) a minimum 500 space car garage, and (3) a pedestrian bridge. The office building will be a Gold LEED 250,000 square foot building and will accommodate an estimated 1,000 new jobs in the River District URA. Commercial development is particularly important in this area to help provide employment opportunities for the thousands of new residents moving into Downtown Waterfront/Old Town and the River District URA. This project will convert a vacant brownfield site to a productive use. Additionally, the preliminary estimated annual tax increment funds (TIF) generated by the project as of the completion date of February 2010, is estimated to be \$888,051 for year one. Based on an estimated increase in assessed value the tax increment increases to \$1,153,337 per year by October 2020, the plan expiration date.

This action will support the following PDC goals:

- Develop healthy neighborhoods
- Provide access to quality housing
- Help business to create and sustain quality jobs
- Support a vibrant central city (urban core)
- Contribute to a strong regional economy

PUBLIC PARTICIPATION AND FEEDBACK

This Project has been the subject of public participation and feedback, in particular during the River District URA FY 2006-2007 and FY 2007-2008 budget hearings at the Pearl District Neighborhood Association (PDNA). PDNA's stated view of the Project and PDC's obligation to construct the Parking Garage is that both should be reevaluated based on changed conditions in the River District URA. In particular, PDNA Land Use Committee does not support PDC ownership of the Parking Garage.

COMPLIANCE WITH ADOPTED PLANS AND POLICIES

The Office Building and Parking Garage are specifically included in the adopted River District Development Plan (1994), the Central City Plan update (1996) and the River District Urban Renewal Plan (Plan) (1998). Specifically, the goals of the Plan identify:

- Maximize the potential for economic development and to promote development of commercial uses to create jobs.
- That parking facilities be developed to support new commercial development.

The proposal also supports key PDC 2007-2012 Strategic Plan strategies, in particular:

Strategy 1: *Foster an open, inclusive, and accountable approach to economic development and prosperity in the City and region.*

- Key action item: Assist in creating and retaining quality jobs.
- Key action item: Develop key public amenities that enhance community livability and economic vitality.

Strategy 4: *Develop new and innovative tools to finance the City's livability and development objectives.*

- Key action item: Invest to grow Portland's future revenue base.

FINANCIAL IMPACT

The potential financial impacts resulting from authorizing the Amended DDA as opposed to the Original DDA will limit PDC's investment to approximately \$8.5 million dollars and \$2 million dollars for the land, determined by an appraisal that calculated the Fair Use value, for a total of \$10.5 million dollars. The Original DDA requires PDC to construct and own a 700 space Parking Garage at roughly an investment of \$23.1 million dollars. The estimated amount of \$8.5 million dollars will be split with \$4.5 million dollars used to design and construct the Marshall Street Bridge, public infrastructure which did not have identified funding or requirement in the Original DDA and to reimburse 1201 for other agency-financed public improvements. The remaining \$4 million dollars will be for a loan for the Parking Garage. The actual amount spent by PDC will be determined by the design and construction costs of the Marshall Street Bridge and the costs of the other agency-financed improvements.

The terms of the Amended DDA exceed approved Development Loan Guidelines as the term of the loan in the Amended DDA is 18 months for construction, with a possible extension up to 6 months for construction, then with a remaining term of 15 years. The Guidelines identify a term of 10 years. The Loan Committee recommended approval on October 25, 2007 of a loan term of 20 years at 2% interest rate, and recommended approval of an exception to the Development Loan guidelines regarding the loan term. The interest rate of 2% is within the range of the Guidelines. The value of the PDC land to be used for the Parking Garage was based on a November 15, 2007 Integra Realty Resources appraisal which determined the Fair Reuse value of the garage land at \$2,000,000 with the As Is Market Value of \$5,200,000. Adjustments to the Market Value As Is of \$5,200,000 to get to the Fair Reuse value are:

- | | |
|---|---------------|
| • Development Rights – Base FAR Transferred | - \$ 600,000 |
| • Development Rights – Bonus FAR Eliminated | - \$1,200,000 |
| • Proscriptive Use for a Parking Structure | - \$ 520,000 |
| • LEED Gold Requirement | - \$ 660,000 |
| • Required Traffic Improvement | - \$ 165,000 |

The appraisal did not quantify into the Fair Reuse Value that the PDC owned property is a brownfield site with environmental contamination. The environmental contamination should be mitigated through construction. The Loan Committee on October 25, 2007 approved for recommendation that the loan for the garage site be appraised at a fair re-use value.

An additional substantial benefit to private ownership of the garage is the property tax generated. The River District URA FY 2007-08 Adopted Budget and Forecast includes \$8.5 million dollars (Item 13113 One Waterfront Parking) for the construction of the Parking Garage. The FY 2007-08 Adopted Budget and Forecast for the River District URA is attached as a Financial Summary (Attachment A). Approximately \$500 thousand in expenditures are anticipated in FY 2007-08. The FY 2007-08 River District Budget will be

amended by this amount to move \$500 thousand from future fiscal years forecasts to accommodate earlier expenditures.

RISK ASSESSMENT

On or before January 15, 2010, if construction has not commenced, Developer shall deliver written notice to PDC either:

- Commit to develop the Project (the office building, parking garage and pedestrian bridge) if not already under construction; or
- State that such Project uses are not feasible.

If Developer delivers notice committing to develop the Project, PDC shall be obligated to perform its obligations with regard to the sale and financing of the garage land and financing of the garage and construction of the pedestrian bridge and Developer shall be obligated to perform its obligations with regard to securing financing and commencing construction of the office building and parking garage together with their other respective obligations.

If the Developer states that the Project is not feasible, PDC shall have the right to repurchase the Building Site based on an appraisal to determine Fair Market Value or PDC may choose to not exercise such right and determine that all terms of the DDA are null and void, remove all notices and record a quit-claim Deed in favor of the Developer.

The Original DDA stated that if the Redeveloper were unable to construct the office building on the Office Building site, then PDC would be able to reenter and take possession of the Office Building site. The Revised DDA states that if Developer is unable to construct the office building, then PDC will have the option to repurchase the Office Building site for the then appraised market value of the property.

WORK LOAD IMPACT

The project is a major one and is particularly difficult given low staffing in the River District URA. We anticipate requesting an additional staff member to assist with growing work load demands. In the interim, we are bringing a temporary staffer on board to help accommodate the River District work load. On this project, PDC staff will work with 1201 Building LLC on the coordination, design, permitting and construction of the Marshall Street pedestrian bridge and other implementation activities identified in the Amended DDA.

ALTERNATIVE ACTIONS

The Board could reject entering into the Amended DDA. If the Board takes this action and 1201 Building LLC does not perform as provided under the Original DDA, PDC could exercise its non-exclusive remedies for 1201 Building LLC's default.

CONCURRENCE

PDC Investment Committee had some reservations on some terms of the DDA, which have subsequently been satisfactorily resolved. PDC Loan Committee supported and forwarded the terms to the Executive Director. The City of Portland Design Commission and Bureau of Development Services is supportive of this project

BACKGROUND

PDC issued a development offering in July 1999, for development of an office building and parking garage on the Property in the River District Urban Renewal Area. A selection committee chose the 1201 Building LLC to develop the Project Terms and conditions of the Original DDA include 1201 Building LLC's obligation to construct the Project on the Property and PDC's obligation to finance the Parking Garage. As part of the Original DDA, PDC conveyed the Property at full market value to Madrona Park LLC in September 2000, for the Purchase Price of \$1,546,804. Additionally, the Original DDA required 1201 Building LLC to secure construction financing and commence construction within twenty-seven months after conveyance of the Property. This required construction to commence by December, 2002. The Original DDA provided that if the Redeveloper were unable to obtain a Certificate of Completion for the Office Building within the time-line provided in the Original DDA, PDC would be able to reenter and take possession of the Office Building Site.

PDC staff has been meeting on a regular basis with 1201 Building LLC for over 12 months exploring the range of opportunities and the potential to recast the terms of the Original DDA. The revised terms of the attached Amended DDA will limit PDC's outlay investment to a total of \$10.5: \$8.5 million which will be allocated of \$4.5M for public improvements and \$4M for gap financing and sale and financing of the Garage land for \$2 million dollars, as determined by an appraisal that calculated the Fair Use value for the garage site. This is compared with a substantially higher liability for PDC under the original DDA for the PDC owned and constructed 700 space Parking Garage that would cost approximately to \$23.1 million dollars. Property taxes will be paid on the parking garage as it will now be privately owned. In consideration for the reduced PDC financial obligations, PDC has agreed to relinquish its right of reentry under the Original DDA, and has agreed that if Redeveloper defaults under the DDA, or determines no later than January 15, 2010 that the project is not feasible, PDC will have the option to acquire the Office Building Site under the following conditions, based on appraisal to determine fair market value at the time of potential reentry on the Building site and with certain reimbursable expenses to the Redeveloper. The formula shall be as follows:

- Future appraised fair market value minus:
- 100% of the original purchase price (\$1,546,804) paid by Redeveloper for the Building;
- 100% of property taxes paid by Redeveloper for the Building Site during Redeveloper's ownership of the Building Site;
- 70% of the architectural, engineering, survey and other consultants' fees, plan check and permit fees, insurance premiums, legal fees, accounting fees, advertising and marketing fees and expenses, brokerage fees and design review fees by Redeveloper as of the date Amended DDA is executed;
- 70% the amount of the BOORA architectural fees plus \$70,000 between the execution of the Amended DDA and the date that the Redeveloper provides notice of project infeasibility;
- Then remaining funds after payment of the reimbursable expenses shall be shared equally by PDC and Redeveloper.

Of the PDC's \$8.5 million dollar investment, approximately \$4,500,000 will be used for the construction of the Marshall Street pedestrian bridge and to reimburse 1201 Building LLC for other PDC required and financed public improvements PDC will provide gap financing of \$4,000,000 and seller financing of the garage land. PDC will commit to provide an additional 150 parking spaces at market rate in the nearby Station Place garage for up to ten years.

The basic terms included of the Amended DDA:

General Terms

- There will be no priority or preferential return to the developer.
- PDC assumes no risk for financing of the office building or primary financing of the garage.
- PDC's investment of approximately \$8.5M will be segregated into two discrete amounts:
 - \$4 M for PDC gap financing for the garage
 - Estimated amount of \$4.5 M for the design and construction of the Marshall Street pedestrian bridge and reimbursement to 1201 Building LLC for other agency-financed public improvements
- Gap financing and seller financing will be treated as one loan with a 2% interest rate with a term of 18 months for construction, which may be extended up to 6 months, then with a term of 15 years.
- PDC will be responsible for the design, permits, easements, financing and construction of the Marshall Street pedestrian bridge.
- Developer responsible to enter into a maintenance agreement with PDC for the Marshall Street Bridge, prior to conveyance of garage land.
- Garage land value determined through the November 15, 2007 Integra Realty Resources appraisal which determined the Fair Reuse value of the garage land at \$2.0 million dollars.
- PDC financing for the garage is to include a look-back provision to recapture interest if Developer's IRR exceeds 12% for parking garage development.
- PDC will rent 150 spaces at PDC's Station Place Garage, to the extent allowed by bond covenants, at market rents, up to ten years, for tenants of One Waterfront.

Developer Obligations

- Construct 12-story 250,000 sf Class A office tower on the Redeveloper owned property.
- Construct a minimum 500-stall parking garage with ground-floor retail on the PDC owned property.
- Compliance with PDC M/W/ESB goals.
- Compliance with PDC Green Building Policy at a gold LEED Certification.
- Compliance with PDC Construction Wage Policy (BOLI) for the garage.
- Developer will seek a predetermination letter from BOLI that the office building is not prevailed; Developer will provide PDC an indemnification if BOLI determines the office building is not prevailed.
- Responsible to enter into a maintenance agreement with PDC for the Marshall Street Bridge, prior to conveyance of garage land.
- Provide public easement across office tower property.
- PDC financing for the garage is to include a look-back provision to recapture interest if Developer's IRR exceeds 12% for parking garage development.
- On or before January 15, 2010, if construction has not commenced, Developer shall deliver written notice to PDC to either:
 - Commit to develop the Project (the office building, parking garage and pedestrian bridge); or
 - State that such uses are not feasible

If Developer delivers notice committing to develop the Project, PDC shall be obligated to perform its obligations with regard to the sale and financing of the garage land and financing of the garage and construction of the pedestrian bridge and Developer shall be obligated to perform its obligations with regard to securing financing and commencing construction of the office building and parking garage together with their other respective obligations. If

Developer notifies PDC that the Project is not feasible, PDC shall have 90 business days after receipt of an appraisal to determine fair market value, the right to repurchase the Building Site from the redeveloper, subject to a formula for certain reimbursable expenses, PDC may choose to not exercise such right and determine that the all terms of the DDA are null and void and removing all notices and exercising the quit-claim Deed in favor of the Developer.

- When Developer refinances the First Mortgage, Developer will seek to maximize dollars available at time of any refinance, including the refinance of the initial permanent mortgage in order to pay down PDC loan amount with net proceeds.
- PDC's post-conveyance remedies remain for default.
- There will be no priority or preferential return to the developer.
- PDC assumes no risk for financing of the office building or primary financing of the garage.

PDC Obligations

- PDC will be responsible for the design, permits, easements, financing and construction of the Marshall Street pedestrian bridge
- PDC will provide financing for 20 years for the parking garage
- Gap financing and seller financing will be treated as one loan with a 2% interest rate with a term of 18 months for construction, which may be extended up to 6 months, then with a permanent loan term of 15 years.
- Garage land value will be determined through an appraisal for the fair reuse value of the garage land taking into consideration the obligation of the Developer to build the parking structure.
- To the extent allowed by bond covenants, PDC will rent 150 parking spaces at PDC's Station Place Garage, to tenants of the One Waterfront Office Building; at market rents.
- PDC's Gap and Seller Financing will be secured by a Deed of Trust on the garage.

The terms outlined in the Amended DDA limits PDC investment in the overall project, builds a public infrastructure amenity that will enhance community livability and economic viability and leverages a \$90M to \$115M development that will generate, after construction, property tax over the next 10 years of \$10,137,459.

ATTACHMENTS:

- A. River District URA Fund Summary
- B. Project Summary
- C. Site Map

CC: C. Twete, Development Director
S. Shain, Development Manager
M. Baines, General Counsel
J. Jackley, Executive Operations Manager
J. Cody, Interim Director, Central Services

RIVER DISTRICT URA FUND SUMMARY

Financial Summary

Fund Summary - Five-Year Budget Projections

	<i>FY 2006-07 Revised Budget</i>	<i>FY 2007-08 Adopted Budget</i>	<i>FY 2008-09 Forecast</i>	<i>FY 2009-10 Forecast</i>	<i>FY 2010-11 Forecast</i>	<i>FY 2011-12 Forecast</i>
River District URA						
Resources						
Beginning Fund Balance	1,755,241	425,973	16,251,236	6,166,308	2,079,112	7,318,398
Interest - City Invest Pool	154,000	300,000	485,000	500,000	550,000	450,000
Loans - Interest Earned	187,014	285,000	335,000	385,000	335,000	335,000
Loans - Principal Collection	187,013	300,000	350,000	400,000	350,000	350,000
Real Property Sales	0	2,000,000	0	0	0	0
Reimbursement	200,000	200,000	200,000	200,000	200,000	200,000
Rent and Property Income	0	0	0	200,000	200,000	200,000
Tax Increment - L-T Debt	9,000,000	15,139,473	11,082,000	17,401,000	10,206,999	0
Tax Increment - S-T Debt	10,132,289	11,277,252	12,243,031	13,615,506	14,302,205	4,475,068
Total Fund Resources	21,615,557	29,927,698	40,946,267	38,867,814	28,223,316	13,328,466

Requirements

Project Expenditures (does not include Personal Services or Indirect Cost)

Development						
10225 - RD Retail Loan Program	404,000	200,000	200,000	200,000	200,000	200,000
10227 - RD Historic Preservation	75,000	75,000	75,000	0	0	0
10234 - RD Park Ave Redev	150,000	100,000	1,000,000	0	0	0
11032 - RD Light Rail	1,750,000	0	0	0	0	0
11263 - RD Public Site Imprv	350,000	250,000	125,000	125,000	125,000	125,000
11264 - RD Burns/Couch Trans	575,000	500,000	2,370,000	1,425,000	0	0
13104 - RD Centennial Mill	500,000	800,000	1,500,000	2,000,000	0	0
13112 - RD North Pearl Planning	275,000	100,000	0	0	0	0
13113 - RD One Waterfront	250,000	250,000	100,000	8,000,000	0	0
13115 - RD Station Place Redev	100,000	50,000	15,000	0	0	0
13116 - RD Predevelopment	150,000	0	0	0	0	0
13117 - RD Dev Loan Program	750,000	500,000	500,000	750,000	750,000	750,000
13119 - RD Neighborhood Park	420,000	500,000	3,625,000	0	0	0
13135 - RD Seismic Loans	93,337	350,000	500,000	1,000,000	1,000,000	1,000,000
13136 - RD DOS Program	0	100,000	100,000	100,000	100,000	100,000
13137 - RD Eastside Streetcar Connect	0	0	2,500,000	0	0	0
13138 - RD Post Office	0	500,000	1,750,000	6,500,000	6,500,000	0
13142 - RD Project Management	5,000	0	0	0	0	0
13143 - RD Environmental	200,000	125,000	125,000	125,000	125,000	125,000
13144 - RD Pedestrian Bridge	0	150,000	0	0	0	0
60005 - RD Transit Mall Redev	0	1,000,000	1,000,000	0	0	0
60006 - RD Burns/Couch Streetcar	0	0	0	250,000	0	0
60017 - RD Signage & Lighting	0	88,000	88,000	0	0	0
Development Total	6,047,337	5,638,000	15,573,000	20,475,000	8,800,000	2,300,000
Economic Development						
13088 - RD Storefront Grants	297,317	300,000	330,000	363,000	399,300	439,230
70003 - RD Business Finance Tools	3,305,000	2,673,000	2,200,000	2,420,000	2,662,000	2,928,200
70013 - RD Business Retention	241,300	100,000	110,000	121,000	133,100	146,410
70303 - RD Transit Mall Asst	350,000	0	0	0	0	0
Economic Development Total	4,193,617	3,073,000	2,640,000	2,904,000	3,194,400	3,513,840
Housing						
13145 - RD Station Place REACH	2,000,000	0	0	0	0	0
13146 - RD Block 14 Affordable Hsg	30,437	0	0	0	0	0
13148 - RD Crane Building	344,849	0	0	0	0	0
32129 - RD Rental/Preservation	4,050,480	78,138	4,050,480	0	0	0
37923 - RD Hsg Policy/Planning	5,000	10,000	10,000	10,000	10,000	10,000
37926 - RD Affordable Housing	0	0	0	9,825,000	2,150,000	4,150,000
37927 - RD Station Place - Lot 5	0	1,500,000	8,500,000	0	0	0

PROJECT SUMMARY

Project Name: One Waterfront Place

Description: 250,000 square foot. Class A office building

Location: Between NW Naito Parkway and the Rail yard

URA: River District

Current Phase: Authorize Amended and Restated DDA

Next Milestone: Design and Construction

Completion Target: January 2012

Outcome: Construction of a 250,000 square foot office building, a minimum 500 car parking garage and the Marshall Street pedestrian bridge

Site/Project Map: See Attachment C

SITE MAP

