

# PDC

## PORTLAND DEVELOPMENT COMMISSION

**DATE:** January 13, 2010

**TO:** Board of Commissioners

**FROM:** Bruce A. Warner, Executive Director

**SUBJECT:** Report Number 10-09  
First Amendment to the First Amended and Restated Disposition and Development Agreement with One Waterfront Place, LLC and Madrona Park, LLC for One Waterfront Place

### EXECUTIVE SUMMARY

#### BOARD ACTION REQUESTED

Adopt Resolution No. 6764

#### ACTION SUMMARY

This action authorizes the Executive Director of the Portland Development Commission (PDC) to execute a First Amendment to the First Amended and Restated Disposition and Development Agreement (DDA) with One Waterfront Place, LLC and Madrona Park, LLC (Redeveloper). The First Amendment will: (1) extend the date by which the conditions to Closing must be satisfied by 12 months, from January 15, 2010, to January 14, 2011; (2) modify the terms by which Redeveloper can demonstrate financial feasibility for the project; (3) modify PDC's obligations pertaining to the pedestrian bridge to be contingent upon Redeveloper's demonstration of financial feasibility for the project and allow PDC 28 months from the Conveyance of Garage Site date to satisfy these conditions; and (4) require Redeveloper to submit quarterly progress reports.

The history of this project dates back to 1999, and is more fully described in the "Background" section below. For the purposes of this action, the original agreement covering this project was approved and executed in 2000, and was subsequently amended eight times, most recently with the execution of the DDA referred to above on January 9, 2008.

The DDA states that certain conditions precedent (including requirements for the Redeveloper to demonstrate financial feasibility for the project by providing binding commitment letters from private lenders for the construction and permanent financing for the project and required lease-up as may be required by the private lender) must be satisfied no later than January 15, 2010.

On April 9, 2009, the Redeveloper submitted a written request to PDC to extend the DDA timeline for the conveyance of the Garage Site parcel by 12 months due to adverse economic conditions that have hindered the ability of the Redeveloper to meet the financial feasibility obligations in accordance with the DDA Schedule of Performance.

Staff is proposing to extend the timeline by 12 months and to modify terms relating to the financial feasibility notice, pedestrian bridge, and quarterly progress reports.

## **PUBLIC BENEFIT**

The primary benefit of this action is to increase the potential for this redevelopment project to succeed. Extending the timeline to allow an additional 12 months for the Redeveloper to demonstrate financial feasibility for the project will provide additional time for the Redeveloper to identify the needed tenants and obtain financing for the project. Redeveloper has indicated they are in substantive discussions with potential tenants and additional time is needed for decisions to be made. The economic recession and financial crisis that has occurred over the past 24 months was not anticipated when the DDA was executed and has, through no fault of the Redeveloper, resulted in an uncertain time for companies to be planning for future employment levels and related relocations and future space needs. In addition, credit markets have also tightened during this time period, which has resulted in increased pre-leasing requirements and increased difficulty in obtaining financing. Extending the timeframe for the Redeveloper to demonstrate financial feasibility will provide additional time to allow the credit markets to normalize while providing increased confidence to potential investors and tenants that the project can succeed. This action will also modify PDC's obligations relating to the design, permitting, and construction contract for the pedestrian bridge to be contingent upon Redeveloper's demonstration of financial feasibility for the project. This will limit PDC's expenditure and time commitments to the project.

This action will also require Redeveloper to submit quarterly progress reports to PDC subject to the terms of non-disclosure agreements, which will enhance the exchange of information and certainty regarding Redeveloper's progress on satisfying the conditions of the DDA.

Otherwise, the terms of the DDA remain the same and will provide the following benefits:

- Development of long-vacant and underutilized parcels in the River District URA;
- Additional pedestrian and commercial activity in the area and enhanced access from the Pearl District across the railroad tracks to Naito Parkway and the Greenway Trail;
- Increased transit ridership on the nearby planned streetcar line;
- Opportunities for increased Central City employment, which is an important component of the City's adopted five-year Economic Development Strategy. The project includes approximately 250,000 SF of Class A commercial space and will accommodate approximately 1,000 employees;
- Substantially increased tax revenue; roughly estimated at \$10 million over the first ten years; and
- Compliance with PDC's Green Building and Business Equity policies. The DDA requires the building to achieve a minimum LEED Gold certification and Redeveloper has indicated a desire to achieve LEED Platinum.

### **This action will support the following PDC goals:**

- Sustainability and Social Equity
- Healthy Neighborhoods
- A Vibrant Central City

- Strong Economic Growth and Competitive Region
- Effective Stewardship over our Resources and Operations, and Employee Investment

## **PUBLIC PARTICIPATION AND FEEDBACK**

PDC staff have not yet reviewed the proposed First Amendment with the Pearl District Neighborhood Association or the River District Urban Renewal Advisory Committee (URAC) but plan to communicate the staff proposal with these stakeholders prior to the Board meeting.

## **COMPLIANCE WITH ADOPTED PLANS AND POLICIES**

This action and the project are consistent with the following plans and policies:

- River District Urban Renewal Plan (1998): maximize the potential for economic development and to promote development of commercial uses to create jobs; improve transportation linkages with other parts of the Central City and region and to modify and improve transportation within the Area to enhance livability; and create convenient, accessible surface and structured parking facilities at locations which support full utilization of private parcels and public amenities.
- City of Portland Economic Development Strategy (2009): enhance the vitality and distinctiveness of the Central City to showcase our sustainable way of life and attract creative class talent; and build the next generation built environment and support the Clean Tech and Sustainable Industries cluster by investing in LEED certified buildings.
- PDC 2008 – 2012 Strategic Plan (2008): Foster an open, inclusive, and accountable approach to economic development and prosperity in the City and region by assisting in creating and retaining quality jobs, developing key public amenities that enhance community livability and economic vitality, revitalizing blighted areas through strategic partnerships and property acquisitions, and enhancing public resources through leveraging private investment where appropriate.

The Redeveloper will comply with PDC's Green Building Policy and Business Equity and Workforce Equity Programs.

## **FINANCIAL IMPACT**

The DDA includes an \$8.5 million dollar investment by PDC (Attachment A). Approximately \$4.5 million is to be used for the design and construction of the pedestrian bridge and to reimburse Redeveloper for other PDC required and financed public improvements. The remaining \$4.0 million is for seller financing of the Garage Site purchase by Redeveloper.

The proposed First Amendment will not create any significant financial impacts to the adopted River District URA budget beyond those already anticipated in the DDA. Extending the timeline for the project while maintaining PDC's commitment to construct the pedestrian bridge may result in higher costs to design and construct the bridge due to cost escalation. In the near term, the First Amendment will limit PDC's need to expend time and financial

resources to design, permit, or enter into construction contracts for the pedestrian bridge until such time as the Redeveloper has demonstrated financial feasibility for the project to PDC's satisfaction.

Without the First Amendment, it is likely the Redeveloper would be unable to satisfy the conditions of the DDA and the agreement would be terminated as specified. Should the DDA be terminated, PDC would be able to reallocate the \$8.5 million in funds dedicated to this project to other projects in the River District URA.

Although the \$8.5 million PDC commitment is included in the adopted FY09-10 budget, the draft River District URA FY 10-11 budget that has been shared with stakeholders has excluded this funding commitment in anticipation that the DDA would be terminated. Amending the DDA for additional time will require PDC to work with stakeholders to modify the draft River District URA budget and reallocate funds for this project. This will have an impact on other projects that may be viewed as higher priorities or more likely to succeed.

The purchase price specified in the DDA for the Garage Site is \$2.0 million, which was the appraised value of the parcel in November 2007. At the time the DDA was executed, there was a 27 month gap between when the November 2007 appraisal was conducted and the January 2010 date specified for the closure/conveyance of the Garage Site. Extending the due date for the closure/conveyance of the Garage Site increases the length of time between when the appraisal was conducted and the conveyance takes place by 12 months, for a total duration of 39 months. This increases the potential for the purchase price of the parcel as specified in the DDA to vary significantly at the time of closure/conveyance.

To date, PDC has spent \$123,520 on the design of the pedestrian bridge. Additional work on the bridge was put on hold in April 2009 when it became apparent Redeveloper would not be able to demonstrate financial feasibility for the project by January 2010.

## **RISK ASSESSMENT**

Extending the timeline by 12 months creates a risk for PDC by budgeting funds for a project that has not succeeded with Redeveloper's best efforts dating to September 2000. The risk is that, should Redeveloper not satisfy the amended conditions and schedule, PDC will have budgeted funds for this project that may not be spent in a timely manner, and this action will have precluded allocation of those funds to other projects that may be viewed as more catalytic, timely, and more likely to succeed.

Nevertheless, staff believes the Redeveloper has acted diligently and in good faith and that this extension is necessary in light of the unprecedented economic conditions. In addition, the Redeveloper has made significant investments in predevelopment activities and securing entitlements, which provides an incentive to move forward on the project promptly. To assure the Redeveloper continues to act diligently and in good faith, the amended DDA includes a requirement for the Redeveloper to submit written quarterly progress reports documenting the Redeveloper's efforts to tenant, finance, and complete the design of the project.

The DDA includes conditions for PDC, prior to the Conveyance of Garage Site date, to have completed the design of the pedestrian bridge, including obtaining all necessary easements, executing a construction contract, receiving approval for final construction plans and specifications by all required governmental entities and agencies, and for the City of

Portland Bureau of Development Services to be ready to issue building permits required for construction. This requirement anticipated the office building, garage, and pedestrian bridge would be completed and ready for occupancy on the same timeline. These conditions required PDC to invest significant resources in designing and permitting the pedestrian bridge prior to the Redeveloper having demonstrated financial feasibility for the project. Since PDC does not anticipate constructing the bridge independent of the building and garage, this was a significant risk for PDC.

The proposed First Amendment mitigates this risk by limiting PDC's pedestrian bridge obligations to be effective only after Redeveloper has demonstrated financial feasibility for the project and allows PDC 28 months to satisfy those conditions from the Conveyance of Garage Site date. While this condition mitigates PDC's financial risk, according to the project schedule, this will create a delay of approximately eight months between the time the Redeveloper anticipates completion of the building and garage and when PDC anticipates completion of the pedestrian bridge. There is a risk potential tenants of the project may find this construction schedule undesirable. Nonetheless, staff believes it is prudent to not spend additional funds on the pedestrian bridge until it is clear the project is financially feasible and moving toward construction. The intent remains for PDC to diligently complete construction of the pedestrian bridge as quickly and economically as possible, and to coordinate with Redeveloper to expedite the pedestrian bridge and minimize construction impacts to the project.

Since the DDA has already been executed and other terms of the DDA are not being changed, the other material risks with the terms of this agreement have already been considered and addressed in the executed DDA.

## **WORK LOAD IMPACT**

Authorization to amend the DDA will extend the timeline by 12 months. Without this extension, it is likely the DDA would be terminated and workload for this project reduced. The First Amendment will, therefore, likely result in a modest increase in the workload for PDC staff on this project. This change in workload should not result in a need to modify staffing levels but will reduce the ability of staff to work on other projects.

## **ALTERNATIVE ACTIONS**

The PDC Board of Commissioners (Board) could decide to either (1) not amend the DDA; or (2) extend the DDA for a greater or lesser duration than recommended by staff.

If the Board decides to not amend the DDA or to extend it for a lesser duration, this will likely result in the failure of Redeveloper to satisfy the conditions to Closing which must otherwise be satisfied by January 15, 2010. Any default by the Developer to not adhere to the Schedule of Performance, or any other material provision of the DDA, shall be addressed through the terms outlined in the DDA. A Board decision to not approve the First Amendment will likely result in a termination of the DDA and the project.

A decision by the Board to extend the DDA for a duration greater than 12 months may increase opportunities for the Redeveloper to secure tenants and financing. However, it will also tie the redevelopment of the PDC-owned Garage Site and the River District URA budget further to this redevelopment concept without any certainty the Redeveloper will

succeed and further commit PDC to construct the pedestrian bridge in the future when costs for design and construction may be higher than originally anticipated in the DDA.

## **CONCURRENCE**

The Investment Committee approved of the conditions contained in the DDA but has not reviewed the terms of the proposed First Amendment.

## **BACKGROUND**

PDC issued a development offering in July 1999 for development of an office building and parking garage on 3.2 acres of PDC-owned property in the River District URA. A selection committee chose the Redeveloper to develop the project. PDC and Redeveloper subsequently entered into a Disposition and Development Agreement on September 13, 2000.

Due to market forces outside the control of Agency and Redeveloper, the project as originally drafted became infeasible. Therefore, the schedule of performance was extended seven times by Amendment Number 1, dated January 24, 2002, Amendment Number 2, dated December 5, 2002, Amendment Number 3, dated December 10, 2004, Amendment Number 4, dated June 14, 2006, Amendment Number 5, dated July 6, 2007, Amendment Number 6, dated July 11 2007, and Amendment Number 7, dated November 13, 2007.

Redeveloper purchased the northerly 1.31-acre Building Site from PDC on September 19, 2000, for \$1,546,804. PDC continues to own the southerly 1.91-acre Garage Site.

Again, due to market forces outside the control of PDC and Redeveloper, the project as originally drafted and as amended became infeasible. The Board adopted Resolution No. 6550 authorizing the Executive Director to enter into the First Amended and Restated Disposition and Development Agreement (DDA) on January 9, 2008. The DDA was subsequently executed on January 9, 2008. The DDA calls for PDC, under certain terms and conditions, to sell the Garage Site to Redeveloper and to design and construct a pedestrian bridge, and for Redeveloper, under certain terms and conditions, to purchase the property from PDC, and to construct a commercial, Class "A" office building of approximately 250,000 square feet, an above-grade parking garage containing a minimum of 500 parking spaces, and other related infrastructure and site improvements (Attachment C).

Redeveloper has spent over \$2.0 million in predevelopment costs to date and has the project fully entitled including Design Review approval.

## **ATTACHMENTS:**

- A. River District URA Budget Summary
- B. Project Summary and Site Map
- C. One Waterfront Place Site Plan

**URA FINANCIAL SUMMARY**

**Financial Summary  
 Fund Summary - Five-Year Budget Projections**

	Revised FY 2008-09	Revised FY 2009-10	Forecast FY 2010-11	Forecast FY 2011-12	Forecast FY 2012-13	Forecast FY 2013-14
<b>River District URA</b>						
<b>Resources</b>						
Beginning Fund Balance	16,879,294	27,660,830	3,414,718	7,580,135	4,655,385	3,271,635
Interest on Investments	320,000	1,000,000	200,000	50,000	50,000	50,000
Loan Collections	625,000	1,300,000	300,000	300,000	300,000	300,000
Property Income	200,000	200,000	200,000	200,000	200,000	200,000
Reimbursements	1,452,500	125,000	125,000	125,000	0	0
TIF Proceeds	18,944,960	25,218,829	50,416,817	0	0	0
<b>Total Resources</b>	<b>38,421,754</b>	<b>55,504,659</b>	<b>54,656,535</b>	<b>8,255,135</b>	<b>5,205,385</b>	<b>3,821,635</b>
<b>Requirements</b>						
<b>Program Expenditures</b>						
<b>Business and Industry</b>						
<b>General Business Assistance</b>						
H79020 Business Finance	1,100,000	1,995,000	3,100,000	0	0	1,100,000
h79023 Materials Lab	0	100,000	0	0	0	0
h79024 Oregon Manifest	0	5,000	0	0	0	0
<b>Business and Industry Total</b>	<b>1,100,000</b>	<b>2,100,000</b>	<b>3,100,000</b>	<b>0</b>	<b>0</b>	<b>1,100,000</b>
<b>Housing</b>						
<b>Multi-Family - Rental Housing</b>						
h12030 Fairfield Apartments	0	82,000	0	0	0	0
H32138 Pearl Family Housing	900,000	12,000,000	7,000,000	0	0	0
H37937 Access Center - Afford Housing	850,000	16,200,000	0	0	0	0
H37938 Blanchet House Redev	465,000	265,000	0	0	0	0
H37940 New Avenues for Youth	0	1,200,000	0	0	0	0
H80036 Yards at Union Station	50,000	0	0	0	0	0
H80037 Grove Apartments	500,000	100,000	0	0	0	0
H89030 Affordable Rental Housing	0	500,000	4,000,000	0	0	0
<b>Portland Housing Bureau</b>						
H28025 Administration	0	62,297	751,640	0	0	0
<b>Housing Total</b>	<b>2,765,000</b>	<b>30,409,297</b>	<b>11,751,640</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Infrastructure</b>						
<b>Facilities</b>						
H60020 Union Station	725,000	425,000	0	0	0	0
<b>Parks</b>						
H13119 Neighborhood Park	350,000	350,000	2,450,000	0	0	0
<b>Transportation</b>						
H11233 Public Site Improvements	0	200,000	0	0	0	0
H11234 Westside Burnside-Couch Couplet	1,100,000	764,663	0	0	0	0
H11263 RD Public Site Improvements	250,000	79,000	0	0	0	0
H13137 Streetcar Loop Project	2,100,000	9,797,730	4,500,000	0	0	0
<b>Infrastructure Total</b>	<b>4,525,000</b>	<b>11,616,393</b>	<b>6,950,000</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Financial Summary**  
**Fund Summary - Five-Year Budget Projections**

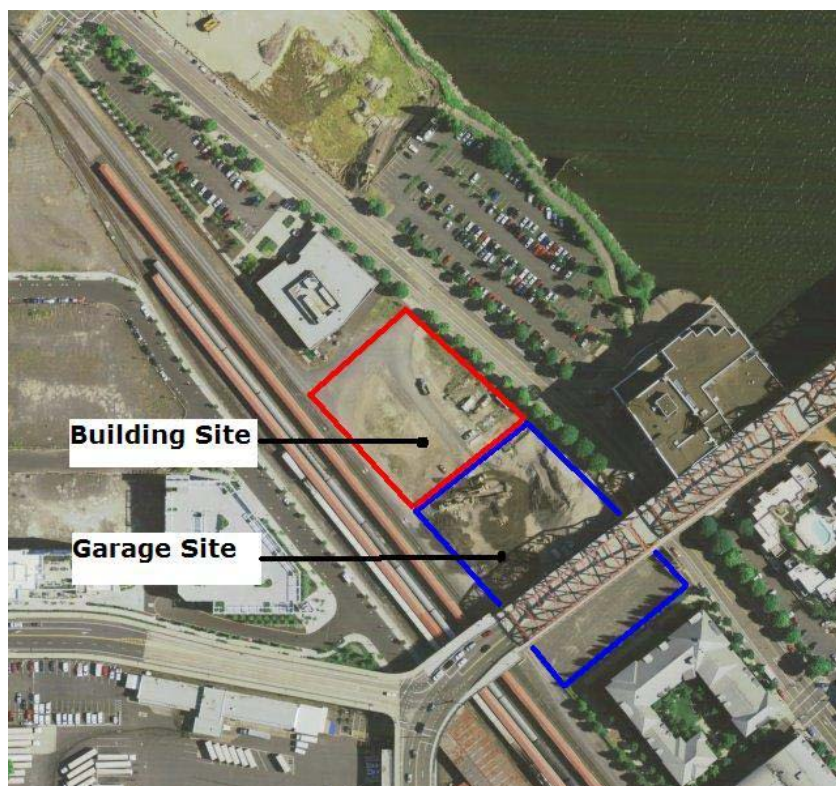
	Revised FY 2008-09	Revised FY 2009-10	Forecast FY 2010-11	Forecast FY 2011-12	Forecast FY 2012-13	Forecast FY 2013-14
<b>Revitalization</b>						
<b>Plans and Strategies - Revitalization</b>						
H13112 North Pearl District Plan	200,000	0	0	0	0	0
H92110 Westside/Central City Study	233,000	335,331	0	0	0	0
<b>Redevelopment</b>						
H10221 Transit Mall Revitalization	657,450	0	0	0	0	0
H10226 Meier & Frank Redevelopment	12,000	0	0	0	0	0
H11244 One Waterfront Place	400,000	350,000	7,350,000	600,000	0	0
H12101 Downtown Retail Strategy	5,000	27,500	0	0	0	0
H13104 Centennial Mills Redevelopment	585,000	200,000	9,335,000	800,000	0	0
H13143 RD Environmental	570,000	124,000	0	0	0	0
H22500 Post Office	1,200,000	200,000	0	0	0	0
H27001 Storefront Grants	200,000	200,000	200,000	0	0	0
H27050 DOS Grants	100,000	75,000	75,000	75,000	75,000	75,000
H28030 Redevelopment Loan Projects	0	1,500,000	1,500,000	1,500,000	1,500,000	1,500,000
H60021 10th and Yamhill Redevelopment	100,000	0	0	0	0	0
<b>Revitalization Operations</b>						
H13142 RD Project Management	25,000	0	0	0	0	0
<b>Revitalization Total</b>	<b>4,287,450</b>	<b>3,011,831</b>	<b>18,460,000</b>	<b>2,975,000</b>	<b>1,575,000</b>	<b>1,575,000</b>
<b>Administration</b>						
<b>Finance</b>						
H96001 Debt Management	50,000	50,000	50,000	50,000	50,000	0
<b>Administration Total</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>0</b>
<b>Total Program Expenditures</b>	<b>12,727,450</b>	<b>47,187,521</b>	<b>40,311,640</b>	<b>3,025,000</b>	<b>1,625,000</b>	<b>2,675,000</b>
Personal Services	1,315,358	1,086,995	826,804	91,960	49,400	81,320
Internal Expenditures	4,506,911	4,115,425	5,937,956	482,790	259,350	426,930
<b>Total Fund Expenditures</b>	<b>18,549,719</b>	<b>52,389,941</b>	<b>47,076,400</b>	<b>3,599,750</b>	<b>1,933,750</b>	<b>3,183,250</b>
Contingency	19,872,035	3,114,718	7,580,135	4,655,385	3,271,635	638,385
Ending Fund Balance	0	0	0	0	0	0
<b>Total Requirements</b>	<b>38,421,754</b>	<b>55,504,659</b>	<b>54,656,535</b>	<b>8,255,135</b>	<b>5,205,385</b>	<b>3,821,635</b>



## PROJECT SUMMARY

- Project Name:** One Waterfront Place
- Description:** Disposition and Development Agreement with One Waterfront Place, LLC and Madrona Park, LLC for a 250,000 square foot Class A office building, a minimum 500 space parking garage, and the Marshall Street pedestrian bridge.
- Location:** Between NW Naito Parkway and the Portland Terminal Railroad tracks to the north of and under the Broadway Bridge.
- URA:** River District
- Current Phase:** Authorize First Amendment to Amended and Restated DDA; Developer currently in process of securing tenants and financing for project.
- Next Milestone:** Closing/Conveyance of Garage Site on January 14, 2011 (proposed date)
- Completion Target:** July 2012
- Outcome:** Substantial redevelopment of vacant and underutilized site, construction of 250,000 square foot office building, a minimum of 500-space parking garage, and Marshall Street pedestrian bridge connecting project to the Pearl District.

### Site/Project Map:



Building Site (Property ID R508396) is 1.31 acres, owned by Developer

Garage Site (Property ID R508394 and 508395) is 1.91 acres, owned by PDC

**One Waterfront Place Site Place**

