

10168219
07/19/2007 10:46 AM \$0.00
Book - 9493 Pg - 748-755
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
INTEGRATED TITLE INS. SERVICES
BY: SAM, DEPUTY - MI 8 P.

WHEN RECORDED RETURN TO:

REDEVELOPMENT AGENCY OF SALT LAKE CITY
Room 418, City and County Building
451 South State Street
Salt Lake City, Utah 84111
Attention: Valda E. Tarbet

Sidwell No. 08-25-452-013 and 08-25-452-015

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this 3rd day of April, 2007, by and between the REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency ("Agency") and WEST CAPITOL HILL, LLC, a Utah limited liability company ("Developer"), both of whom are collectively referred to herein as the Parties, and individually as a Party.

WHEREAS, Agency and Developer entered into that certain Development Agreement, dated July 25, 2006, and recorded in the Official Records of Salt Lake County on July 31, 2006, as Instrument Number 9797055, in Book 9329, Pages 1422-1453 (hereafter the "Development Agreement"); and

WHEREAS, the Development Agreement pertains to the development of certain real property located on Lot 1, Block 151, Plat "A", Salt Lake City, Utah, which is legally described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Parties desire to amend the Development Agreement as provided herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. The Schedule attached to the Development Agreement as Exhibit "D" (Timeline for West Capitol Hill Townhomes, A PUD) is hereby deleted and the Schedule attached hereto as Exhibit "D-1" is substituted therefor.

2. Section 3.6 of the Development Agreement is hereby amended and restated as follows:

Bonds; Financial Assurance. The Contract Documents shall include provisions requiring a bond of the Contractor covering completion, performance and payment for labor and materials with respect to the work to be performed, which bond shall name the Contractor as principal and the Parties, jointly and severally, as obligees, with a corporate surety or sureties approved by the Parties. Any bond shall comply with the then current Agency bonding criteria. Work shall not commence until the bonds in the full amount of the Contract Documents have been placed. The bonds shall be in an amount equal to the full amount of the contract price (which bonds shall be increased, if necessary, to reflect increased costs resulting from such change orders approved in writing by the Parties). The bonds shall be secured from a surety authorized to do business in the State of Utah and rated B+ or better by the A. M. Best Company at the time of issuance of the bonds and holding certificates of authority as an acceptable surety on federal bonds as listed by the United States Department of Treasury (Circular 570, as amended) in its most recent list at the time of issuance of the bonds. The penal sum shall be within the maximum specified for such surety. The attorney-in-fact who executes the bonds on behalf of the surety shall affix to the bonds a certified and current copy of his or her power

of attorney. In lieu of a completion bond, Agency may, in its discretion, accept a "Completion Bond" in the full amount of the cost of completing the Developer Improvements, so long as such Completion Bond is in form and substance acceptable to Agency.

3. Section 4.2 of the Development Agreement is hereby amended and restated as follows:

No Encumbrances Except Mortgages, Deeds of Trust, or Other Financing for Development. No mortgages, deeds of trust, or other forms of conveyance required for any financing shall be permitted before issuance of a Certificate of Completion; provided, however, a first mortgage or first deed of trust securing an amount not to exceed One Million Eight Hundred Eighty Thousand Dollars (\$1,880,000), shall be permitted only for the propose of securing loans of funds to be used for financing the construction of Developer Improvements as contemplated by the Purchase Agreement. Developer shall notify the Agency in writing in advance of any such first mortgage or first deed of trust if Developer proposes to enter into the same before issuance of a Certificate of Completion of the construction of the Developer Improvements on the Property or the portion thereof to be subject to such financing arrangement. In addition, Developer shall provide Agency such information and documents in connection with such financing arrangement as Agency may request. Developer shall not enter into any such financing without the prior written approval of Agency, which approval may be withheld in Agency's sole and absolute discretion. Such financing arrangement shall be deemed disapproved if not approved in writing by Agency within ten (10) days after written notice thereof to Agency. Notwithstanding anything to the contrary in this Agreement or in the Purchase Agreement, Developer shall not obtain any mortgage or deed of trust until and unless Developer has obtained a building permit acceptable to Agency, as more particularly provided in the Purchase Agreement. The lender for any approved financing shall provide Agency notice of any default or breach by Developer under such financing until such time as Agency issues a Certificate of Completion.

4. Section 5.1 of the Development Agreement here hereby amended and restated as follows:

Valuation of Property for Tax Purposes. Developer shall pay all real estate taxes or assessments due with respect to the Property. For purposes of ad valorem and similar taxes and assessments relating to the Property, Developer acknowledges that the Property with the Developer Improvements will have a value, upon completion of all Developer Improvements, of not less than Two Million Dollars (\$2,000,000.00), and Developer shall not contest such value. Notwithstanding the foregoing, upon the sale of any portion of the Property, as permitted herein (following the issuance of a Certificate of Completion), Developer shall be relieved of its obligation to pay real estate taxes and assessments for the period after the date of such permitted sale (with any such taxes and assessments being prorated with the buyer of such portion of the Property as of the date of such sale), and this Section 5.1 shall terminate as to such portion of the Property.

5. The Developer represents and warrants that neither it nor any of its members, managers, employees or officers has: (1) provided an illegal gift or payoff to an Agency officer or employee or former Agency officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, an Agency officer or employee or former Agency officer or employee to breach any of the ethical standards set forth in the City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

6. At Agency's election, this Agreement or a memorandum of this Agreement shall be recorded in the Official Records of Salt Lake County.

7. Unless otherwise defined herein, capitalized terms shall have the meaning set forth in the Development Agreement.

8. Except as expressly amended hereby, the Development Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

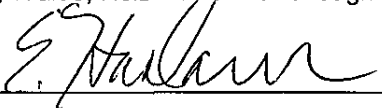
REDEVELOPMENT AGENCY OF SALT LAKE CITY

By: 
Ross C. Anderson
Its Chief Administrative Officer

By: 
Valda E. Tarbet
Its Acting Executive Director

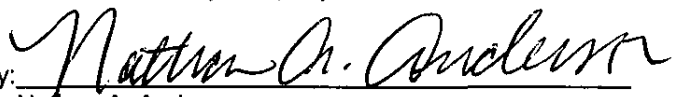
Approved as to legal form:

Jones, Waldo, Holbrook & McDonough

By: 

DEVELOPER

WEST CAPITOL HILL, LLC
a Utah limited liability company

By: 
Nathan A. Anderson
Its Manager

STATE OF UTAH)
)
) : ss.
)
COUNTY OF SALT LAKE)

On the 31 of May, 2007 personally appeared before me Ross C. Anderson, who being by me duly sworn did say that he is the Chief Administrative Officer of the Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of said Agency.



Patrick Thronson

NOTARY PUBLIC

My Commission Expires:

12/19/09

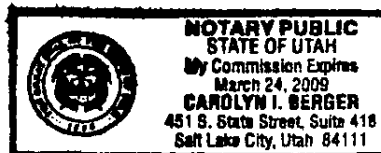
STATE OF UTAH)
)
) : ss.
)
COUNTY OF SALT LAKE)

On the 18 day of May, 2007 personally appeared before me Valda E. Tarbet, who being by me duly sworn did say she is the Acting Executive Director of the Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of the Agency.

My Commission Expires:

3/24/09

Carolyn I. Berger



STATE OF UTAH)
)
) : ss.
)
COUNTY OF SALT LAKE)

On this 3rd day of April, 2007 personally appeared before me Nathan A. Anderson, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who, being by me duly sworn (or affirmed), did say that he is the manager of West Capitol Hill, LLC, a Utah limited liability company and that said document was signed by him in behalf of said limited liability company by authority of its operating agreement.

NOTARY PUBLIC
Residing at: *Madine K. Geist*

My Commission Expires:

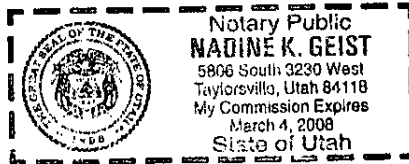


EXHIBIT "A"

PROPERTY DESCRIPTION

The following parcels of real property that are located in Salt Lake County, Utah:

Parcel 1: 701 North 300 West

Beginning at the southeast corner of Lot 1, Block 151, Plat "A", Salt Lake City Survey, running North 82 and ½ feet; thence West 8 rods; thence South 82 and ½ feet; thence East 8 rods to beginning.

Parcel Identification No. 08-25-452-013

Parcel 2: 314 West 700 North

Beginning 8 rods West from the southeast corner of Lot 1, Block 151, Plat "A", Salt Lake City Survey, running thence West 64 feet; thence North 8.5 rods; thence East 64 feet; thence South 8.5 rods to beginning.

Parcel Identification No. 08-25-452-015

EXHIBIT "D-1"

Attach Amended Schedule



West Capital Hill Townhomes

*Timeline
of
Construction*

Development Work

Curb & gutter replacement & asphalt patch completed by April 6th.

Weeks of March 19th thru April 9th

Excavate and install footing & foundations for West Building.

Weeks of April 9th thru April 27th

Excavate and install footing & foundations for East Building.

April 9th thru September 30th – West Building

April 30th thru October 15th – East Building

Construction of units to progress thru framing, plumbing, heating, and electrical trades. Once 4-way inspection passes construct will continue to progress through insulation, drywall, finish carpentry, paint, tile flooring, cabinets and countertops. All finish trades that include plumbing, heating and electrical will complete items and carpet and appliance installation to occur. Final inspection will take place and once passed the certificates of occupancy can be issued from Salt Lake City Building Department.

The construction period will take approximately six months not including any weather days. If there is a weather day it will be documented and Ferran Construction not held accountable for that day of construction.