

FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT ("Amendment") is entered into as of the 24 day of February, 2004 by and between the REDEVELOPMENT AGENCY OF THE CITY OF RICHMOND, a public body corporate and politic (the "Agency") and ORTON DEVELOPMENT, INC., a California corporation (the "Developer").

RECITALS

A. The Agency and the Developer are parties to that certain Disposition and Development Agreement dated November 18, 2003 (the "Agreement") concerning the sale, lease and redevelopment of certain real property more particularly described therein.

B. The parties desire to amend the Agreement upon the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Agency and Developer hereby agree as follows:

1. Defined Terms. All capitalized terms not otherwise defined in this Amendment shall have the meanings set forth in the Agreement.

2. Purchase Price. Subsection (b) of Section 4.3 of the Agreement is hereby amended to read in its entirety as follows:

"(b) The Purchase Price for the Property shall be Five Million Four Hundred Thousand Dollars (\$5,400,000.00). Any unexpended portion of the Deposit shall be credited against the Purchase Price, all of which shall serve to reimburse the Agency for a portion of the qualified rehabilitation expenditures previously incurred by the Agency to rehabilitate and improve the Building prior to November 18, 2003. The Developer acknowledges that the Agency has retained consultants and others to assist in the determination of compliance with the requirements of Health and Safety Code Section 33433 and that appropriate findings in compliance with said provisions are required for the approval of this Agreement. Developer shall pay Two Million Dollars (\$2,000,000) in U.S. currency of the Purchase Price by deposit into escrow on or before Closing as set forth in Section 4.3 of this Agreement. The balance of the Purchase Price in the amount of Three Million Four Hundred Thousand Dollars (\$3,400,000) (the "Deferred Portion") shall be paid by Developer in accordance with Section 4.3A below."

3. Deferred Portion of Purchase Price. New Section 4.3A is hereby added to the Agreement to read as follows:

"4.3A Payment of Deferred Portion of Purchase Price. The Deferred Portion of the Purchase Price shall be payable as follows: the sum of One Million Dollars (\$1,000,000) shall be paid not later than the third (3rd) anniversary of the Closing, and the remaining balance of the Deferred Portion and all accrued unpaid interest thereon shall be paid in full on or before but not later than

the fifth (5th) anniversary of the Closing (the "Maturity Date"). Developer hereby waives demand, notice of non-payment, protests and presentment for payment. The Developer shall pay the Deferred Portion of the Purchase Price subject to the following:

(a) Interest shall accrue on all of the unpaid balance of the Deferred Portion outstanding at the same terms required by Developer's construction lender. However in no event shall the interest to be paid on the unpaid balance of the Deferred Portion be less than simple interest of five and one-half percent (5.5%) per annum. Interest shall be payable quarterly on the first day of each calendar quarter until the Deferred Portion is paid in full. Developer shall also pay to the Agency "points", if any, on the Deferred Portion at the same terms required by Developer's construction lender.

(b) In the event of sale(s) of all of the Property by the Developer at anytime prior to the fifth (5th) anniversary of the Closing, Developer shall pay to the Agency, as additional interest, a sum equal to fifty (50%) percent of Developer's "Profit" (as hereafter defined) realized from any such sale transaction(s), payable upon the closing of such transaction.

(c) Developer's "Profit" means Developer's net profit realized from any such sale as determined for Federal income tax purposes, but excluding any portion of such profit representing recapture of depreciation or other losses previously recognized by Developer in connection with the Project.

(d) In the event of Developer's default as outlined in Section 11.4 of the Agreement, Developer's Deposit, and all funds expended by Developer under the Program Management Agreement of October 28, 2003 and/or this Agreement are non-refundable to Developer. Notwithstanding the foregoing, a termination of this Agreement as a result of the occurrence of any event outlined in Section 11.2 (b) and/or (c) of this Agreement shall not constitute a default by Developer for purposes of this provision.

(e) In the event of the sale(s) of all or a portion of the Property (excluding the sale of condominium units), the amount of the Deferred Portion that shall be paid by the Developer shall be a sum equal to all of the Developer's "Net Cash Proceeds" realized by the Developer from any such sale transaction(s), payable upon the closing of such transaction. Any such prepayments of the Deferred Portion shall be applied first toward the \$1,000,000 principal reduction payment due on the third anniversary of the Closing unless and until such principal reduction is paid in full; then toward the principal balance of the Deferred Portion due on the Maturity Date; then to any accrued unpaid interest, until the Deferred Portion has been paid in full.

(f) For purposes of this Agreement, the term "Net Cash Proceeds" shall mean the excess (if any) of (1) the gross cash proceeds of any sale of the Property or any portion thereof, other than condominium unit(s), over (2) all selling costs including, without limitation, brokerage commissions, closing costs and prorations. In no event shall Net Cash Proceeds of any sale of the Property include any sum paid to the Agency pursuant to subsection 8.2(b) below. In no event shall any proceeds from the sale of condominium units be required to be applied toward the prepayment of the Deferred Portion.

(g) Developer shall provide as security for its performance under Sections 2 and 4.3 of this Agreement a deed of trust on the Property to the Agency ("Agency's Deed of Trust"). The Agency's Deed of Trust shall be junior and subordinate to the lien of Developer's construction lender(s) and original takeout lender(s).

(h) In the event of default in the payment of the Deferred Portion as due and as provided for in this Section 4.3, Developer shall pay Agency a penalty of one (1%) percent of the remaining outstanding balance of the Deferred Portion for each calendar quarter that Developer remains in default. Should default be made in payment of any installment when due the whole sum of principal and interest shall become immediately due at the Agency's option. Interest after default shall continue at the rate stated above. Any payment of interest and/or principal due and not paid by Developer within fifteen (15) days of written notice from the Agency to Developer that such payment(s) is past due shall constitute a material breach of this Agreement. If suit is brought as a result of Developer's default under this Section, Agency shall be entitled to collect in such proceeding all actual costs and expenses of suit, including but not limited to actual attorney's fees.

4. Separate Certificates of Completion. Subsection (c) of Section 6.11 of the Agreement is hereby amended to read in its entirety as follows:

"(c) If requested by Developer, a separate Certificate of Completion for the residential live-work or other portions of the Project shall be issued separately from the balance of the Project."

5. Completion of Construction. Section 6.4 of the Agreement and Item 46 of the Schedule of Performance (attached as Exhibit E to the Agreement) are both hereby amended as follows: (a) the references to "eighteen (18) months" and "18 months" are hereby changed to read "twenty-four (24) months"; and (b) the references to "three (3) years" and "3 years" are hereby changed to "forty-two (42) months."

6. Effect of Amendment. In the event of any conflict or inconsistency between this Amendment and the Agreement, the terms and provisions of this Amendment shall be controlling. Except as expressly set forth herein, the Agreement shall remain in full force and effect according to the terms thereof.

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

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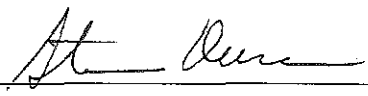
REVIEWED:

BY:



AGENCY ATTORNEY

REDEVELOPMENT AGENCY OF THE
CITY OF RICHMOND (the "AGENCY")



Community & Economic Development Director

ATTEST:


BY:



AGENCY SECRETARY

ORTON DEVELOPMENT, INC.,
a California corporation (the "DEVELOPER")

By:



J. R. Orton, III
President