

After recording return to:

Tracy Brown
Planning Director
City of Sandy
39250 Pioneer Blvd
Sandy, OR 97055

Clackamas County Official Records
Sherry Hall, County Clerk

2015-052256

Exhibit C



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\$68.00

08/05/2015 09:08:33 AM

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\$20.00 \$16.00 \$22.00 \$10.00

**NON-STATUTORY DEVELOPMENT AGREEMENT
BETWEEN
CITY OF SANDY AND MICHAEL MAIDEN LLC**

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The City of Sandy, an Oregon municipal corporation ("City") and Michael Maiden LLC, an Oregon limited liability company ("Maiden") enter into this Agreement on August 3, 2015. This Agreement refers to City and Maiden individually as a "Party" and jointly as the "Parties."

RECITALS

On June 15, 2015, the Sandy City Council adopted Ordinance No. 2015-03 (the "Decision"), which conditionally rezones properties that Maiden owns. The relevant properties are legally described as Lots 2 through 5 and Lot 7, Sandy Industrial Park Subdivision (the "Properties"). The Decision conditionally rezones the Properties from I-2 to I-1 assuming Maiden meets a number of conditions of approval. The Decision also requires the Parties to enter into this Agreement.

AGREEMENT

In consideration of the City's approval of Maiden's request to change the zoning on the Properties and other consideration, the receipt of which the Parties acknowledge, the Parties agree as follows:

1. Term. This Agreement will remain in effect until City certifies in writing that Maiden has met its obligations pursuant to the Agreement and the Decision, or until the Parties mutually agree in writing to terminate the Agreement.
2. Zone Changes. The City will change the zoning on the Properties from I-2 to I-1 only if the following conditions are satisfied:
 - a. Maiden applies for a pre-application conference no later than October 1, 2015.
 - b. Maiden applies for and City grants design review approval for all buildings on the Properties no later than February 1, 2016.
 - c. Maiden completes all required site improvements and building upgrades on the Properties within three (3) years of design review approval.
 - d. Maiden may complete all required site improvements and building upgrades at the same time on all of the Properties, or Maiden may complete required site improvements and building upgrades in phases as follows:
 - i. Maiden may first complete all required site improvements and building upgrades for Lots 2 and 3. In this instance, the zoning on Lots 2 and 3 will change from I-2 to I-1 when City confirms in writing that Maiden has met all its obligations in this

Agreement, the Decision and in the design review approval relative to Lots 2 and 3; and

- ii. Maiden may then proceed to complete all required site improvements and building upgrades for Lots 4 and 5. In this instance, the zoning on Lots 5 and 4 will change from I-2 to I-1 when City confirms in writing that Maiden has met all obligations in this Agreement, the Decision and in the design review approval relative to Lots 2 and 3.
 - iii. If Maiden chooses to phase the improvements and upgrades, Maiden must still complete all required site improvements and building upgrades on the Properties within three (3) years of design review approval.
 - e. The City will not change the zoning on Lot 7 from I-2 to I-1 until it has changed the zoning on Lots 2 through 5 pursuant to this Agreement and the Decision.
3. No Reimbursement by City. The City will not pay for or reimburse Maiden for any costs associated with the zone changes or development on the Properties. The only exception is for any public improvements that may be eligible for system development charge credits relative to the Properties' redevelopment.
4. Nature of Agreement. City has approved and executed this Agreement pursuant to its home rule charter and not pursuant to ORS 94.504 et seq. This Agreement does not constitute or concern the adoption, amendment, or application of the Statewide Planning Goals, a comprehensive plan provision, or a land use regulation, but rather implements a condition the Decision.
5. Assignment and Delegation. Maiden may not assign or delegate a right or obligation under this Agreement without the prior written consent of the City, which the City may withhold in its sole discretion.
6. Remedies. City will have all available remedies at law or in equity to recover damages and compel Maiden's performance in accordance with this Agreement. The rights and remedies afforded under this Agreement are not exclusive and are in addition to and cumulative with any and all rights otherwise available to City at law or in equity. The City's exercise of any one or more of such remedies will not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other Maiden default or breach, including, without limitation, the right to compel specific performance.
7. Notice. Any notice required by this Agreement must be in writing and mailed by registered or certified mail to the other Party, as follows:
- a. TO CITY: Tracy Brown, Planning Director, 39250 Pioneer Blvd., Sandy, OR 97055
 - b. TO MAIDEN: Michael Maiden 16600 SE 362nd Ave., Sandy, OR 97055
8. Counterparts. If this Agreement is executed in two (2) or more counterparts, each counterpart will be deemed to be an original, and each counterpart will constitute one and the same instrument.

9. Waiver. Neither City nor Maiden may waive any provision or any breach of this Agreement unless the waiver is in writing. No waiver shall be construed to be a continuing waiver. No waiver with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver.
10. Time of the Essence. Time is of the essence under this Agreement.
11. Law and Venue. Oregon law governs this Agreement without respect to conflict of laws principles. Venue is in Clackamas County Circuit Court. The Parties consent to the personal jurisdiction of Clackamas County Circuit Court relative to this Agreement.
12. Severability. If any clause, sentence or any other portion of this Agreement is deemed or becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.
13. Entire Agreement. This Agreement contains the entire agreement between the Parties relative to the subject matter contained in it.
14. Authority. The individuals executing this Agreement warrant that they have full authority to execute it on behalf of the Party they represent. Each Party represents to the other that neither the execution and delivery of this Agreement, nor performance of the obligations under this Agreement will conflict with, result in a breach of, or constitute a default under, any other agreement to which it is a party or by which it is bound.
15. Amendments. Any amendment to this Agreement must be in writing and signed by the Parties.
16. Relationship. This Agreement does not create a joint venture, partnership or an agency relationship between the Parties.

[SIGNATURES ON FOLLOWING PAGE]

SIGNED:

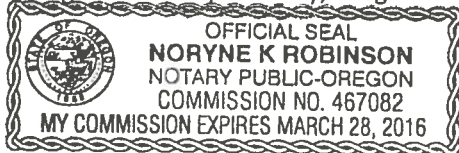
CITY OF SANDY

Seth Atkinson

Seth Atkinson
City Manager

State of Oregon)
)ss.
Clackamas County)

The foregoing instrument was acknowledged before me this 4th August day of 2015, by Seth Atkinson, City Manager of the City of Sandy, Oregon on behalf of Sandy, Oregon.



Noryne K. Robinson

Notary Public for Oregon

My commission expires on: March 28, 2016

MICHAEL MAIDEN LLC

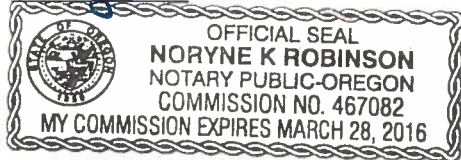
MICHAEL MAIDEN

Michael Maiden

Title: MANAGER

State of Oregon)
)ss.
Clackamas County)

The foregoing instrument was acknowledged before me this 3rd August day of 2015, by Michael Maiden, Manager of Michael Maiden LLC on behalf of Michael Maiden LLC.



Noryne K. Robinson

Notary Public for Oregon

My commission expires on: March 28, 2016