

THIRD AMENDMENT TO MASTER DEVELOPMENT AGREEMENT

This Third Amendment to Master Development Agreement (this "Agreement") is dated effective as of the 17th day of September, 2013, between THE CITY OF AUSTIN, a Texas home rule city and municipal corporation ("City") and SEAHOLM POWER DEVELOPMENT, LLC, a Delaware limited liability company ("Seaholm").

RECITALS:

A. City and Seaholm executed that certain Master Development Agreement dated June 17, 2008 (as amended, the "MDA") concerning the redevelopment of the Seaholm Power Plant in Austin, Texas (the "Property") as more particularly described therein.

B. The MDA was amended by that certain First Amendment to Master Development Agreement dated effective June 18, 2012 (the "MDA First Amendment") and Second Amendment to Master Development Agreement dated effective June 18, 2012 (the "MDA Second Amendment").

C. The First Amendment allowed for certain development flexibility concerning the residential portion of the Property.

D. The parties wish to clarify the MDA First Amendment's development flexibility.

E. Under Section 12.19 of the MDA, the City Manager of the City has the authority to execute clarifications, minor amendments and minor modifications to the MDA without the prior approval of the Austin City Council.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Terms. Initially capitalized terms used herein but not defined will have the meaning assigned such terms in the MDA.

2. Development Flexibility.

(a) Section 2(b) of the First Amendment is amended to read as follows (emphasis added to show additions):

The Hotel/Condo Building under the MDA will now be called the "Residential Building" which will allow the construction of (i) condos and a hotel as currently provided in the MDA, (ii) a 305 unit (or greater) "Class A" multifamily for rent project, or (iii) a 305 unit (or greater) "Class A" for sale residential condominium project. All references in the MDA to the "Hotel/Condo Building" and "Hotel/Condo Property" are now respectively the "Residential Building" and "Residential Property".

(b) If the Residential Building is developed as a full condominium project as provided in Section 2(a)(iii) above, Seaholm may not decrease the number of condo units in the Residential Building below 280 without the City's consent. This floor replaces the floor parameters in section 3.1(e)(ii)(A)-(B) of the MDA for this specific instance.

(c) If the Residential Building is developed as a full condominium project as provided in Section 2(a)(iii) above, the calculation of Property Revenues (MDA definitions) will be calculated as originally provided under the MDA.

(d) If the Residential Building is developed as a full condominium project as provided in Section 2(a)(iii) above, the 4th Disbursement Threshold for the Transfer Price Incentive (MDA Section 6.1) will be the issuance of a Certificate of Occupancy for the entire Residential Building and the closing of the first sale of a condo unit in the Residential Building to a third party unaffiliated with the Borrower.

(e) If the Residential Building is developed as a full condominium project as provided in Section 2(a)(iii) above, the 3rd Disbursement Threshold for the Reimbursable Fees Incentive (MDA Section 6.1) will be the closing of the sale of a condo unit(s) in the Residential Building which, in the aggregate, are in excess of at least 50% of the total condo units in the Residential Building, which sales must be to third parties unaffiliated with the Borrower.

Nothing contained in this Section 2 modifies or amends Sections 2(a), (c), (d), (e) and (f) of the MDA First Amendment and those Sections remain in full force and effect and are ratified and confirmed in all respects.

3. Ratification. Except as specifically amended herein, the MDA remains unchanged, is in full force and effect and is ratified and confirmed in all respects.

4. No Modification. This Agreement supersedes and merges all prior and contemporaneous promises and agreements. No modification of this Agreement or any other Loan Document, or any waiver of rights under any of the foregoing, shall be effective unless made by supplemental agreement, in writing, executed by City and Seaholm. City and Seaholm further agree that this Agreement may not in any way be explained or supplemented by a prior, existing or future course of dealings between the parties or by any prior, existing, or future performance between the parties pursuant to this Agreement or otherwise.

5. Waiver. The execution hereof is not an actual or implied waiver of any condition or obligation imposed under the MDA, but does amend the MDA as expressly provided herein.

6. Miscellaneous. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart. If any covenant, condition, or provision herein contained is held to be invalid by final judgment of any court of competent jurisdiction,

the invalidity of such covenant, condition, or provision shall not in any way affect any other covenant, condition or provision herein contained. The parties acknowledge and confirm that each of their respective attorneys have participated jointly in the review and revision of this Agreement and that it has not been written solely by counsel for one party. The parties hereto therefore stipulate and agree that the rule of construction to the effect that any ambiguities are to or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor either party against the other. The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns (to the extent an assignment is permitted under the MDA).


7. Applicable Law. This Agreement and the rights and duties of the parties hereunder shall be governed for all purposes by the law of the State of Texas and the law of the United States applicable to transactions within said State.

[END OF TEXT - SIGNATURE BLOCKS ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective as of the date first set forth above.

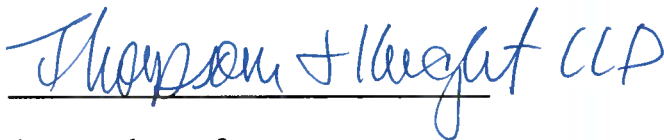
CITY:

THE CITY OF AUSTIN, a Texas home rule city and municipal corporation

By: 
Name: Sue Edwards
Title: Assistant City Manager

Approved as to form and content for the City by the City's external legal counsel:

THOMPSON & KNIGHT L.L.P.



Approved as to form:



Assistant City Attorney – Susan R. Groce

SEAHOLM:

SEAHOLM POWER DEVELOPMENT, LLC, a Delaware limited liability company

By: Seaholm Power, LLC, a Texas limited liability company, its Managing Member

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the undersigned have executed this Agreement to be effective as of the date first set forth above.

CITY:

THE CITY OF AUSTIN, a Texas home rule city and municipal corporation

By: _____
Name: _____
Title: _____

Approved as to form and content for the City by the City's external legal counsel:

THOMPSON & KNIGHT L.L.P.

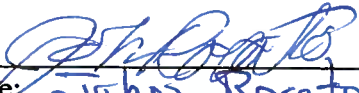
Approved as to form:

Assistant City Attorney – Susan R. Groce

SEAHOLM:

SEAHOLM POWER DEVELOPMENT, LLC, a Delaware limited liability company

By: Seaholm Power, LLC, a Texas limited liability company, its Managing Member

By: 
Name: John Rosato
Title: Manager


CONSENT OF GUARANTOR

CIM FUND III, L.P., a Delaware limited partnership, as guarantor of certain obligations of Seaholm under the MDA pursuant to that certain Guaranty dated June 17, 2008 (the "Guaranty"), consents to the terms and conditions of the Agreement and agrees that the Guaranty is in full force and effect and is ratified and confirmed in all respects.

Executed to be effective as of the effective date of the above Agreement.

CIM FUND III, L.P., a Delaware limited partnership

By: CIM Fund III GP, LLC, a California limited liability company, its general partner


By: 
Name: Eric Rubenfeld
Title: Vice President & Secretary

CONSENT OF JOINDER PARTIES

SEAHOLM H/R, LLC, a Texas limited liability company, as SAE Developer pursuant to that certain Master Development Agreement Joinder (High Rise-Residential Property) dated April 11, 2013 (the "H/R Joinder"), consents to the terms and conditions of the Agreement and agrees that the H/R Joinder is in full force and effect and is ratified and confirmed in all respects.

Executed to be effective as of the effective date of the above Agreement.


SEAHOLM H/R, LLC, a Texas limited liability company

By: 
Name: John Rosato
Title: Authorized Representative

SEAHOLM L/R, LLC, a Texas limited liability company, as SAE Developer pursuant to that certain Master Development Agreement Joinder (Low Rise-Office Property and Power Plant Property) dated April 11, 2013 (the "L/R Joinder"), consents to the terms and conditions of the Agreement and agrees that the L/R Joinder is in full force and effect and is ratified and confirmed in all respects.

Executed to be effective as of the effective date of the above Agreement.

SEAHOLM L/R, LLC, a Texas limited liability company

By: 
Name: John Rosato
Title: Authorized Representative