

**FOURTH AMENDMENT
TO
PROPERTY DISPOSITION AGREEMENT**

This Fourth Amendment to Property Disposition Agreement ("Amendment") is dated as of 28th Oct., 2009, and is made and entered into by and among the CITY OF EVERETT, a municipal corporation of the State of Washington (the "City"); OLIVERMCMILLAN, LLC, a California limited liability company ("OM"), and two Affiliated Entities of OM: (i) OM EVERETT, INC., a Washington corporation ("OM INC"); and (ii) OMH TRANSFER AGENT, LLC, a Delaware limited liability company ("OMH").

A. OM INC and OMH (collectively "Developer") acquired the properties (collectively "Properties") described in that certain Property Disposition Agreement entered into on or about February 21, 2007, between the City and Developer's predecessor-in-interest, OM, as amended by a First Amendment to Property Disposition Agreement dated September 28, 2007, a Second Amendment to Property Disposition Agreement dated February 20, 2008, and Third Amendment to Property Disposition Agreement dated April 30, 2008 (as amended the "PDA").

B. Pursuant to the terms and conditions of the PDA, the City and Developer agreed to certain sequencing and time frames for their respective completion of certain tasks collectively described herein as the "Work".

C. As of June 2, 2009, the Key Development Permits for the Project have been obtained by the Developer and all applicable appeal periods have expired without appeal therefrom, and Developer hereby acknowledges that the terms and conditions of the Key Development Permits are acceptable. Developer and City hereby acknowledge and agree that the Key Development Permits do not include review of the Landfill Site development by the Department of Ecology pursuant to the Consent Decree, as amended, which review shall occur at a later stage of development.

D. In light of the challenging economic environment, the Developer is continuing and will continue to explore various development plans and sequences for the Project. Accordingly, City and Developer have agreed that it is appropriate to modify certain provisions of the PDA and to extend time frames for completion of certain of the Work items as presently required by the PDA.

E. Accordingly, the parties have prepared this Amendment to acknowledge and evidence their agreement to affirm, modify and extend time frames for completion of certain of the Work items as set forth herein.

OliverMcMillan (OM)

NOW THEREFORE, for and in consideration of the mutual promises as stated herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Amendment agree as follows:

1. Extension of Work Deadlines. The following deadlines set forth in the PDA or Third Amendment are hereby extended as follows:

a. City's obligations under Section 3.5 of the PDA to relocate the animal shelter operations, remove its personal property and demolish the animal shelter and all related structures are extended to August 15, 2009.

b. City's obligation under the Third Amendment to PDA, Section 22, to provide OM the proposed design of the Final Roundabout and 41st Street Extension is extended to April 15, 2009.

c. OM's obligation under the Third Amendment to PDA, Section 22, to review, comment and accept the City's proposed design of the Final Roundabout and 41st Street Extension is extended to June 30, 2009.

d. City's obligation under the Third Amendment to PDA, Section 22, to substantially complete construction of the Final Roundabout and 41st Street Extension is extended to October 31, 2011.

e. City's obligation under the Third Amendment to PDA, Section 22, to substantially complete construction of the Main Road Extension from Pacific Avenue to 36th Street and related improvements as described in Third Amendment Section 22.(d), is extended to March 15, 2012, with final asphalt lift in place by April 30, 2012.

f. City's obligation under the Third Amendment to PDA, Section 22, to substantially complete construction of the sanitary sewer system and related improvements as described in Third Amendment Section 22.(g) is extended to January 15, 2012.

g. City's obligation under the Third Amendment to PDA, Section 22, to substantially complete construction of the storm water sewer system and related improvements as described in Third Amendment Section 22.(h) is extended to January 15, 2012.

2. Capitalized Terms. All capitalized terms used herein and not otherwise defined shall have the meaning set forth in the PDA.

3. Other. Except as expressly modified in this Amendment, the PDA shall remain in full force and effect and the parties hereto acknowledge, confirm and ratify all of the terms and conditions of the PDA. All other deadlines for work to be completed by the parties shall remain unchanged as set forth in the PDA.

EXECUTED as of the date first above written by duly authorized officers of the parties hereto, intending to be legally bound hereby.

CITY:

CITY OF EVERETT

By: Ray Stephanson
Ray Stephanson, Mayor

OM:

OLIVERMCMILLAN, LLC

By: Melanie
Name: Richard Paul Buss, President
Title: _____

ATTEST:

By: Sharon Marks
Sharon Marks, City Clerk

APPROVED AS TO FORM:

████████████████████

By: Donna A. Ellis
████████████████████ City Attorney

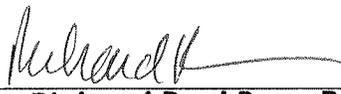
OM INC:

OM EVERETT, INC.

By: 
Name: **Richard Paul Buss, President**
Title: _____

OMH:

OMH TRANSFER AGENT, LLC

By: 
Name: **Richard Paul Buss, President**
Title: _____