

STAFF REPORT



ITEM NO. 9

CITY OF OCEANSIDE

DATE: June 21, 2006
TO: Honorable Mayor and City Councilmembers
FROM: Public Works Department
SUBJECT: **LA MISION VILLAGE AFFORDABLE HOUSING**

SYNOPSIS

Staff recommends that the City Council approve amendments to the Disposition and Development Agreement ("DDA"), Ground Lease, Regulatory Agreement and Loan Documents with Oceanside Housing Partners, L.P., concerning the development and operation of the La Mision Village mixed-use affordable residential rental and commercial/retail complex, and approve a subordination agreement subordinating the City Loan to the bond financed loan; and authorize the City Manager to execute the documents. The proposed amendments reflect changes to the documents to be consistent with the bond financing and construction lender requirements of the construction loans.

BACKGROUND

On July 6, 2005, the City entered into a DDA with Oceanside Housing Partners, L.P., whose general partner is The Southern California Housing Development Corporation of Orange, for the development and operation of the La Mision Village mixed-use affordable residential rental and commercial/retail complex. This project is located on City-owned land in the 3200 block of Mission Avenue at the former Gems n' Loans and La Mision Restaurant sites.

The DDA provides for the ground-leasing of the land to Oceanside Housing Partners for the construction, maintenance and operation of an 80-unit multifamily residential rental complex consisting of 3 one-bedroom, 46 two-bedroom and 31 three-bedroom units, with 1 three-bedroom unit set aside for the onsite manager (it was originally anticipated that there would be 82 residential units, however, the number was reduced to a total of 80 units through the entitlement process), a 1,600-square-foot community room and approximately 4,700 square feet of commercial/retail space, together with appurtenant common use areas, amenities and parking spaces.

As originally written the DDA, Ground Lease, and Regulatory Agreement contemplated a 60-year term. However, the tax credit investor and permanent loan lenders are requiring a longer term of 99 years. The rationale for this requirement is to provide an adequate period of time to repay the City loan, initial private construction loans from the tax credit investor and construction lender, and any refinancing made during the term of

the lease to properly maintain and operate the complex. Also, these lenders may require different amounts to be maintained in the Operating and Capital Reserves than currently stated in the Ground Lease and Regulatory Agreement.

Other minor (housekeeping) changes were made to these documents and the City's Loan Documents to be consistent with the requirements of the bond financing and construction lender.

ANALYSIS

In order to aid Oceanside Housing Partners' ability to obtain adequate private financing to construct the project, it would be necessary to amend certain provisions of the Ground Lease, Regulatory Agreement and the City Loan Documents. The changes to these documents would effectuate changes in the associated elements of the DDA.

A proposed amendment to the Ground Lease affects Section 3.1, Term, and 3.2, Extension of Term, therein. This amendment would increase the duration of the lease term from 60 to 99 years and eliminate the provision of extensions of the lease term. The elimination of the term extension provision in the Ground Lease would also eliminate the need to extend the term of the Regulatory Agreement.

Minor amendments are also proposed for the Ground Lease (Section 10(h)) and the Regulatory Agreement (Section 5(i) and (j)) with regard to the amounts that would be required to be placed and maintained in the Operating Reserve and Capital Replacement Reserve. Both documents currently require that an initial deposit of \$223,000 be placed in the Operating Reserve, with further annual deposits of 3 percent of the Effective Gross Income, and the annual set-aside for the Capital Replacement Reserve at \$59,723. The proposed amendments are that an initial deposit of \$220,525 be placed in the Operating Reserve and that an annual amount of \$48,000 be placed in Capital Replacement at the completion of construction and conversion of the construction loan to permanent financing.

In the Promissory Note (the "Note") the proposed amendment is to the percentage of the Residual Receipts from the development that is to be used to repay the City Loan, as regulated by the California Housing and Community Development Multifamily Housing Program ("MHP"). The Note currently states that 50 percent of the Residual Receipts be used to repay the City Loan of \$8,214,225 over a period of 55 years. MHP requirements reduce the amount of Residual Receipts to pay off the City Loan to 33 percent.

A proposed amendment to the City Loan Documents is in the method for the disbursement of the City's Loan proceeds. As originally contemplated, the City would make the disbursements directly to Oceanside Housing Partners. Under proposed change the proceeds of the City Loan will be deposited with the bond trustee [the Bank of New York Trust Company, N.A.] at the closing of the bond financing loan (anticipated to be by June 28) and disbursed together with the bond and conventional loan. However, the City will have the right to object to the entire request or individual items requested for disbursement by giving notice to the bond trustee, servicing agent and Oceanside Housing Partner within 5 days of receipt of a copy of the request for disbursement.

In preparation for the bond financing closing, Oceanside Housing Partners solicited proposals from construction firms familiar with similarly funded projects. Despite the valued engineering efforts made during project design, bids received came in between \$2 to 4 million over budget. Due to the increased construction cost, the project no longer meets the State's threshold requirement that at least 50 percent of the total development costs be paid with bond proceeds. Therefore, Oceanside Housing Partners must request an increase in the California Debt Limit Allocation Committee (CDLAC) bond allocation to meet the threshold requirement. As a matter of practice, the City is requiring that the developer demonstrate a 55 percent threshold to account for unforeseen expenses during construction to protect the City's loan and ownership of the land.

The CDLAC regulations require the City's loan commitment prior to closing the bond financing. The deadline for the bond closing is July 11, 2006. Staff and Oceanside Housing Partners have received indication that CDLAC will authorize an additional bond allocation to meet the threshold requirement. In order for the project to qualify for an increase in CDLAC funding, the City Council will need to conduct a Tax Equity and Fiscal Responsibility Act (TEFRA) hearing at its meeting on June 28, 2006.

FISCAL IMPACT

On July 6, 2005, with the approval of the DDA, the City Council allocated and encumbered \$2,056,300 of HOME Funds and \$6,157,925 of Inclusionary Housing In-Lieu Trust Funds to cover the \$8,214,225 land acquisition and City Loan commitment. After expenditures for land acquisition the account has a balance of \$5,344,000 which will be used as a not to exceed amount towards the City Loan for the construction of the development.

INSURANCE REQUIREMENTS

The insurance requirements contained in the various documents and instruments called for in the DDA will be obtained and maintained by Oceanside Housing Partners.

COMMISSION OR COMMITTEE REPORT

On a 6-0 vote at its April 25, 2006 meeting, the Housing Commission recommended that the City Council amend the DDA and associated documents to provide a term of 99 years; conform to the MHP regulations regarding the use of Residual Receipts for repayment of the City Loan; and add provisions for a smoke-free project.

The provisions regarding the smoke-free project will be included in the Management Plan pursuant to Section 4.2 of the Ground Lease.

CITY ATTORNEY’S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve amendments to the Disposition and Development Agreement (“DDA”), Ground Lease, Regulatory Agreement and Loan Documents with Oceanside Housing Partners, L.P., and a subordination agreement subordinating the City Loan to the bond financed loan concerning the development and operation of the La Mision Village mixed-use affordable residential rental and commercial/retail complex; and authorize the City Manager to execute the documents.

PREPARED BY:


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SUBMITTED BY:


Barry E. Martin
Interim City Manager

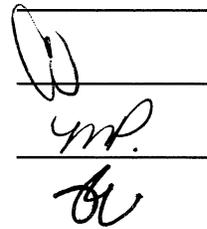
REVIEWED BY:

Michelle Skaggs Lawrence, Assistant to the City Manager

Peter A. Weiss, Public Works Director

Margery M. Pierce, Neighborhood Services Director

Douglas E. Eddow, Real Property Manager



MEMORANDUM

DATE: June 15, 2006
TO: Honorable Mayor and Councilmembers
FROM: Patricia Allison, City Manager's Office
SUBJECT: **AVAILABILITY OF DOCUMENTS FOR REVIEW**

Due to their size, the documents related to this item have not been included in the packet, but are available for review in both the City Manager's Office and the City Clerk's Office.