



OFFICE OF THE CITY ATTORNEY
Long Beach, California

C-6

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

MONTE H. MACHIT
Assistant City Attorney

January 6, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the Department of Development Services to process a refund in the amount of \$361,170 on deposit related to a 2006 development proposal adjacent to the World Trade Center Project. (District 2)

DISCUSSION

In November 2006, PPD Long Beach, LLC, submitted a check for deposit in the amount of \$422,650 to cover the anticipated entitlement expenses and fees related to the then-proposed World Trade Center expansion in the 600-700 block of West Broadway. To date, the Planning Bureau has drawn a total of \$61,480 to reimburse expenses incurred in developing the environmental impact report (EIR).

The development proposal never proceeded. Staff work on this proposal has ceased and the applicant is entitled to a refund of \$361,170, the remaining balance of the original deposit. In accordance with Long Beach Municipal Code Section 3.48.040, which requires that refunds exceeding \$10,000 be approved by the City Attorney and City Council, an approval to process the refund is requested on behalf of the applicants successors in interest.

On September 16, 2014, this matter was before the Council with a request from staff and the City Attorney's office for authority file an interpleader action in court in order to determine to whom the funds should be returned. This request was made due to the fact that the president of Pacific Properties Development, LLC, and Molasky/Pacific (Applicants) had passed away, and Molasky/Pacific had been dissolved. To whom the refund should be made was unclear. Since the Council action in September 2014, two parties have come forward and have established to the satisfaction of the City Attorney that they are the individuals who have a valid claim to the funds remaining on deposit with the City and that there is no need to file an interpleader action in court. Pursuant to an agreement between the two claiming parties, the proceeds from the refund will be divided as follows: \$326,170 will be refunded to Steven D. Molasky; and George Medak of Affiliated Development Group, Inc. will be refunded \$35,000.00. Both parties have agreed to provide the City with executed settlement and release documents pertaining to the refund and will likewise agree to indemnify the City against any possible claims by third parties.

PRINCIPAL DEPUTIES

Dominic Holzhans
Anne C. Lattime

DEPUTIES

C. Geoffrey Allred
Gary J. Anderson
Richard E. Anthony
William R. Baerg
Kendra L. Carney
LaTasha N. Corry
Charles M. Gale
Haleh R. Jenkins
Michele L. Levinson
Barbara J. McTigue
Howard D. Russell
Arturo D. Sanchez
Tiffany L. Shin
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

January 6, 2015
Page 2

This matter was reviewed by Assistant City Attorney Michael Mais on December 12, 2014, and by Budget Management Officer Victoria Bell on December 26, 2014.

TIMING CONSIDERATIONS

City Council action is requested on January 6, 2015, so that the refund process can be completed.

FISCAL IMPACT

The deposit has been held in trust; its return will not affect the funds available or the operating budget of the Development Services Department. The amount of \$361,170 will be refunded from the Development Services Fund (EF 337). There will be no local job impact as a result of the recommended action.

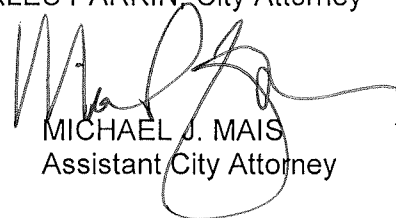
SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,

CHARLES PARKIN, City Attorney

By



MICHAEL J. MAIS
Assistant City Attorney

MJM:kjm
A12-02576
I:\apps\ctylaw32\wpdocs\d026\p020\00506640.doc