



LONG BEACH REDEVELOPMENT AGENCY

333 WEST OCEAN BOULEVARD, THIRD FLOOR • LONG BEACH, CA 90802 • (562) 570-6615 • FAX (562) 570-6215

May 21, 2007

REDEVELOPMENT AGENCY BOARD MEMBERS

City of Long Beach
California

RECOMMENDATION:

Recommendation to approve and authorize the Executive Director to:

- Hold a Public Hearing;
- Receive supporting documentation into the record and conclude the Public Hearing;
- Adopt a Resolution making certain findings and approve and authorize the Executive Director to execute a First Amendment to the Disposition and Development Agreement with Lyon Promenade, LLC for The Promenade project;
- Approve construction of offsite improvements associated with this development in an amount not to exceed \$500,000. (Downtown – District 2)

DISCUSSION

On June 26, 2006, the Redevelopment Agency (Agency) approved a Disposition and Development Agreement (DDA) with Lyon Promenade LLC (Developer) for the redevelopment of land on the east side of The Promenade between Third Street and Broadway (Exhibit A – Site Map).

According to the terms of the DDA, the Developer will pay the fair market value of \$2,912,200 for the 28,600-square-foot parcel at the southeast corner of The Promenade and Third Street and the 29,076-square-foot parcel on Long Beach Boulevard between Third Street and Broadway. Of this total, \$234,132 will be paid in cash and earmarked for public art in The Promenade. The balance of this purchase price (\$2,678,068) was to have been paid with in-kind improvements to public facilities, specifically the construction of 159 public parking spaces.

REDEVELOPMENT AGENCY BOARD MEMBERS

May 21, 2007

Page 2

The Developer's cost to create the public parking spaces has increased significantly and is now estimated to be \$5,565,000. With this increase, it is no longer economically feasible for either the Developer to build or the Agency to purchase the public parking spaces. Accordingly, the terms of the DDA have been renegotiated as outlined below.

The Developer will still build 159 parking spaces above code-required parking, but will now own and operate the entire parking structure as part of a private project. This amendment will remove the public easement requirement for the 159 spaces and remove the requirement that they be part of the Pine Square Parking Validation Program.

In exchange for the Developer privately creating additional parking inventory, the Developer requests that the 10-year covenant to maintain the project as rental apartments be removed.

The Agency will fund the construction of offsite improvements associated with this development, including demolition of the children's fountain on The Promenade, relocation of utilities from vacated alleys, relocation of a Long Beach Transit bus stop and information kiosk, and removal of an underground storage tank, in an amount not to exceed \$500,000.

This amendment will remove the restriction that the property be held as one parcel for ten years. The language related to prevailing wages has been revised, an Indemnification Agreement has been added, and the Schedule of Performance has been amended to account for the delays in the project as the Agency and Developer continued to negotiate a successful solution to these hurdles. With Agency approval, the Developer is ready to begin construction of the project within 30 days.

Summary Report and City Council Approval

Pursuant to California Redevelopment Law, the Agency has made available for public inspection and reproduction a Summary Report (Exhibit B – Section 33433 Summary Report) that contains the following:

- The estimated value of the interest to be conveyed, determined at the highest and best use permitted under the Redevelopment Plan;
- The estimated value of the interest to be conveyed, determined at the use and with the conditions, covenants and development costs required by the Agreement;
- The purchase price;
- The cost of the Agreement to the Agency;
- The net cost/benefit to the Agency;

REDEVELOPMENT AGENCY BOARD MEMBERS

May 21, 2007

Page 3

- An explanation of why the sale of the site will assist in the elimination of blight; and
- An explanation of why the sale of the site is consistent with the Agency's AB 1290 Implementation Plan.

Since the property was purchased by the Agency with tax increment monies, California Redevelopment Law requires that this sale also be approved by the City Council by resolution after a public hearing. This hearing is scheduled for May 22, 2007.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



PATRICK H. WEST
EXECUTIVE DIRECTOR

PHW:CAB:BEC

APPROVED:


GERALD R. MILLER
CITY MANAGER

Attachments: Exhibit A – Site Map
Exhibit B – Section 33433 Summary Report
Redevelopment Agency Resolution

Site

Exhibit B

**SUPPLEMENTAL
SUMMARY REPORT PURSUANT TO
SECTION 33433
OF THE
CALIFORNIA HEALTH AND SAFETY CODE
ON THE FIRST AMENDMENT TO
THE DISPOSITION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE
REDEVELOPMENT AGENCY OF THE CITY OF LONG BEACH
AND
LYON PROMENADE, LLC**

The following Supplemental Summary Report has been prepared pursuant to Section 33433 of the California Health and Safety Code. The report is supplemental to the Section 33433 Summary Report prepared on June 15, 2006 which set forth certain details of the Disposition and Development Agreement (DDA) between the Redevelopment Agency of the City of Long Beach (Agency) and Lyon Promenade, LLC, a limited liability corporation (Developer) dated July 13, 2006. The DDA is being amended through the proposed First Amendment to Disposition and Development Agreement. The DDA and the First Amendment to the Disposition and Development Agreement are collectively referred to as the Agreement. The purpose of the Agreement is to effectuate the conveyance of certain publicly owned parcels to the Developer who intends to construct a mixed-use residential project.

The Agreement requires the Agency to convey the following parcels that are located in the Downtown Long Beach Redevelopment Project Area (Project Area) to the Developer:

1. 28,600 square feet of the parcel located at the southeast corner of Third Street and The Promenade;
2. The 18,750 square foot parcel located north of the alley on Long Beach Boulevard between Third Street and Broadway; and
3. The 10,326 square foot parcel located south of the alley near Long Beach Boulevard between Third Street and Broadway.

The total land area to be conveyed to the Developer is approximately 57,676 square feet (Site).

The Developer is required to construct the following Project on the Site:

1. 104 residential rental units;
2. 11,550 square feet of commercial space; and

3. 401 parking spaces contained in an above-grade parking structure.

This Supplemental Summary Report (Supplemental Report) is based upon information contained within the Agreement and is organized into the following seven sections:

- I. **Salient Points of the Agreement:** This section summarizes the scope of development and the major responsibilities imposed on the Developer and the Agency by the Agreement.
- II. **Cost of the Agreement to the Agency:** This section details the total cost to the Agency associated with implementing the Agreement.
- III. **Estimated Value of the Interests to be Conveyed Determined at the Highest and Best Use Permitted under the Redevelopment Plan:** This section estimates the value of the interests to be conveyed determined at the highest and best use permitted under the Site's existing zoning and the requirements imposed by the Redevelopment Plan.
- IV. **Estimated Reuse Value of the Interests to be Conveyed:** This section summarizes the valuation estimate for the Site based on the required scope of development and the other conditions and covenants required by the Agreement.
- V. **Consideration Received and Comparison with the Established Value:** This section describes the compensation to be received by the Agency and explains any difference between the compensation to be received and the established highest and best use value of the Site.
- VI. **Blight Elimination:** This section describes the existing blighting conditions on the Site and explains how the Agreement will assist in alleviating the blighting influence.
- VII. **Conformance with the AB 1290 Implementation Plan:** This section describes how the Agreement achieves the goals identified in the Agency's adopted AB 1290 Implementation Plan.

The Supplement Report and the Agreement are to be made available for public inspection prior to the approval of the Agreement.

I. SALIENT POINTS OF THE AGREEMENT

A. SCOPE OF DEVELOPMENT

The scope of development required by the Agreement is as follows:

1. Residential Component:

- a. 104 market rate apartment rental units, which equate to a density of 77 units per acre. Each unit will have a private balcony and will be located on three floors above the commercial component.
- b. The proposed unit mix, which totals 95,072 square feet of gross living area, is as follows:

<u>Unit Mix Matrix</u>		
	<u>Number of Units</u>	<u>Unit Size (Sf)</u>
Plan 1A	8	635
Plan 1B	8	683
Plan 1C	8	724
Plan 1D	8	832
Plan 2A	44	886
Plan 2B	12	1,110
Plan 3A	16	1,236
Totals & Averages	104	914

- c. A total of 9,166 square feet of gross building area (GBA) is allocated to the lobby, community center and support space, which are located on the ground floor.
 - d. The residential component equates to a total GBA of 104,238 square feet.
2. Commercial Component: The commercial component will incorporate 11,550 square feet of ground floor space located along the Promenade, fronting Third Street and Long Beach Boulevards.
3. Parking Component: The three-story, above-grade parking structure will contain 401 parking spaces allocated as follows:
- a. 190 Residential spaces; and
 - b. 211 Commercial and other spaces.

4. Public Improvements:

- a. The Developer must install improvements that are complimentary to the Promenade Improvements on the portion of The Promenade that is adjacent to the Project.

In addition, the Agreement imposes on-going maintenance standards on the Project, inclusive of the parking structure, commercial space and the portion of the Promenade that is adjacent to the Project.

B. DEVELOPER RESPONSIBILITIES

The Agreement requires the Developer to accept the following responsibilities:

1. The Developer agrees to purchase the Site at the fair market value of approximately \$2.912 million (Purchase Price), which equates to approximately \$50 per square foot of land area. Payment of the Purchase Price will be provided in cash at the close of escrow.
2. The Developer will pay at the close of escrow a public art fee in the amount of \$234,132. The art fee will be applied toward public art projects selected by the Agency within or near the Promenade. The art fee is included in the cash Purchase Price.
3. The Developer was required to provide a \$25,000 Performance Deposit prior to execution of the DDA.
4. The Developer will develop the Site in accordance with the Scope of Development and Schedule of Performance.
5. If the Developer causes the Agreement to be terminated, the Developer will provide the Agency with any and all plans, drawings, studies and related documents concerning the Site. If the Agency causes the Agreement to be terminated, the Agency will have the right, but not the obligation, to purchase those items from the Developer at its cost.
6. The Developer agrees to the greatest extent possible:
 - a. To provide and require its contractors and subcontractors to provide opportunities to the lower income residents of the City for training and employment in connection with the development of the Project;
 - b. To award and require its contractors and subcontractors to award contracts for work to be performed in connection with development of the Project to residents of the City, to business concerns which are located in or owned in substantial

part by residents of the City, and to persons displaced, if any, as a result of the development of this Project; and

- c. To utilize the services of the City's Training and Employment Development Division.
- 7. The Developer will comply with federal, state, local and Agency provisions regarding nondiscrimination.
- 8. The Developer agrees that all public work performed pursuant to this Agreement shall conform to applicable California Labor Codes, including the Public Contract Code.
 - a. Prior to the Close of Escrow, the Developer will indemnify the Agency and City from any claims related to the non-payment of prevailing wages pursuant to the manner specified in the Agreement.
- 9. The Developer will construct, at its cost, the following Public Improvements:
 - a. The improvements on the portion of the Promenade abutting the Site in accordance with the Promenade Master Plan and the Scope of Development required by this Agreement; and
 - b. The off-site improvements north of Broadway and south of Third Street, known as the Hotel Developer's Promenade Improvements, if permitted to do so by the Agency. The Developer is responsible for all costs incurred for the Hotel Developer's Promenade Improvements with the exception of up to \$25,000 of the cost to prepare the construction drawings for these improvements.
- 10. Covenants Affecting Real Property:
 - a. The Developer agrees that the minimum taxable assessed value to be utilized by the Los Angeles County Tax Assessor (Assessor) is to be the greater of:
 - i. The then-current taxable assessed value of the Site as improved with the Project and determined by the Assessor; or
 - ii. The sum of the Purchase Price plus the value of the improvements as determined by the City for purposes of establishing the building permit fee (Stipulated Value). The minimum taxable assessed value will not be less than the Stipulated Value as more fully described in the Agreement Containing Covenants Affecting Real Property.
 - b. The minimum taxable assessed value will be in effect from the issuance of the certificate of occupancy through the Assessor tax year of 2025/2026.

- c. The Developer agrees that the Site will be maintained in a clean and attractive condition at all times, as provided in the Agreement.
11. Promenade Maintenance:
 - a. The Developer will participate in a maintenance and repair district (Maintenance District) with other developers of projects adjacent to the Promenade (Promenade Developers).
 - b. For the first five years of the Maintenance District, the operating and maintenance costs will be shared among the Promenade Developers and the Agency. Thereafter, the Promenade Developers will be responsible for 100% of the costs.
12. The Developer must inform prospective owners, tenants and licensees of the Project that the City is considering designating the area in which the Site is located as an "Entertainment District."

C. AGENCY RESPONSIBILITIES

Under the Agreement, the Agency must accept the following responsibilities:

1. The Agency agrees to convey the Site to the Developer for its fair market value of \$2.912 million.
2. The Agency will cause to be improved and bear the costs of certain site improvements up to a maximum amount of \$500,000. The site improvements include, but may not be limited to, demolition of the Children's Fountain on The Promenade, relocation of utilities from the vacated public right of ways, relocation of a City transit stop and information kiosk and removal of an underground storage tank.
3. The Agency's Executive Director will have the right to approve or disapprove proposed commercial tenants for five years.
4. The Maintenance District will initially be managed by the Agency, which will be responsible for 25% of the operational costs and expenses during its initial five-year operating period.
5. If Agency agrees to allow Developer to construct the Hotel Promenade Improvements, the Agency will:
 - a. Provide conceptual design plans; and

- b. Pay the costs to prepare construction drawings, not to exceed \$25,000.

II. COST OF THE AGREEMENT TO THE AGENCY

The total Agency costs to implement the Agreement are approximately \$6.8 million, allocated as follows:

<u>Agency Costs To Implement Agreement</u>		
	<u>Nominal Value</u>	<u>Net Present Value ¹</u>
Site Acquisition Cost	\$3,285,830	\$1,639,200
Tenant Relocation Costs	187,690	93,630
Administrative Costs	35,000	17,460
Site Improvement Costs ²	500,000	500,000
Maintenance District Cost (25%, 5 Years)	TBD	TBD
Bond Interest Costs ³	2,796,000	1,811,000
Total Agency Costs ⁴	\$6,804,520	\$4,061,290

The Agency Costs will be offset by the Agency Revenues comprised of the land sale proceeds and the projected property tax increment revenue, estimated as follows:

<u>Net Agency Revenue</u>		
	<u>Nominal Value</u>	<u>Net Present Value</u>
Land Sale Proceeds	\$2,912,200	\$2,912,200
Tax Increment Revenue ⁵	5,843,680	3,086,820
(Less) Total Agency Costs	(6,804,520)	(4,061,290)
Net Agency Revenue	\$1,951,360	\$1,937,730

¹ Site acquisition, tenant relocation and administrative costs were paid with bond financing to be repaid over future time periods. The net present values for those costs are discounted at 5% over a 25-year period of time (typical public financing terms).

² The site improvement costs are an estimated amount not to exceed \$500,000.

³ Bond interest costs are calculated on the principal amount of \$3.508 million, plus \$105,255 in bond issue costs, financed at 5% for 25 years.

⁴ The \$25,000 cost to prepare the construction drawings for the Hotel Promenade Improvements are not included in these costs as the Agency has not agreed to allow the Developer to construct those improvements.

⁵ The net present value of the property tax increment payments are discounted at 5% over 21 years, the remaining tax increment receipts period for the Project Area.

Thus, the Agency will receive net revenues of approximately \$1.96 million which equate to approximately \$1.95 million on a net present value basis when discounted at the rate of 5% for 25 years.

III. ESTIMATED VALUE OF THE INTERESTS TO BE CONVEYED DETERMINED AT THE HIGHEST AND BEST USE PERMITTED UNDER THE REDEVELOPMENT PLAN

Section 33433 of the California Health and Safety Code requires the Agency to identify the value of the interests being conveyed at the highest and best use allowed by the Site's zoning and the requirements imposed by the Redevelopment Plan. The valuation must be based on the assumption that near-term development is required, but the valuation does not take into consideration any extraordinary use, quality and/or income restrictions that would be imposed on the Project by the Agency.

Based on an appraisal conducted by R. P. Laurain & Associates dated January 7, 2005 (Appraisal), the Site is located within the Downtown Planned Development District (PD-30), which permits various commercial and high-density residential uses. The Appraisal concluded that development consistent with the PD-30 zoning represents the highest and best use of the publicly owned parcels, and estimated the property value to be \$2.985 million. The Site is comprised of approximately 57,676 square feet of the 59,076 square-foot property.⁶ Based on the Appraisal, the Site to be conveyed is valued at approximately \$2.912 million or \$50 per square foot of land area.

IV. ESTIMATED REUSE VALUE OF THE INTERESTS TO BE CONVEYED

The fair reuse value can be defined as the fair market value of the land to be conveyed, less the economic value of any development restrictions placed on a project by a redevelopment agency. The fair reuse value also requires that the Project be constructed in the near future. The Agreement requires the Project to be constructed in the near term, but does not impose any restrictions that would reduce the fair market value of the Site. The Agency's economic consultant, Keyser Marston Associates, Inc. (KMA), has therefore concluded that the fair reuse value of the Site is equal to its fair market value.

V. CONSIDERATION RECEIVED AND COMPARISON WITH THE ESTABLISHED VALUE

The Agreement requires the Agency to convey the Site to the Developer for the total amount of \$2.912 million. This amount equals the established fair market value of \$2.912 million identified

⁶ The Agency will dedicate approximately 1,400 square feet for public uses along The Promenade.

above. Thus, it can be concluded that the Agency is receiving fair consideration for the interests being conveyed to the Developer.

VI. BLIGHT ELIMINATION

The Site is currently vacant and, as such, is considered an underutilized property that does not further revitalization of the Downtown area. Development of the Project will contribute to elimination of the current physical blighting conditions and will create an economically viable use on the Site. Thus, the proposed development fulfills the blight elimination requirement.

VII. CONFORMANCE WITH THE AB 1290 IMPLEMENTATION PLAN

The Project conforms to the Project Area's Implementation Plan for 2004 – 2009 by meeting the following goals:

1. The expansion and integration of the Project Area's housing supply through the support of private development;
2. The creation of a balanced housing supply that would be available to individuals and families of diverse incomes;
3. The creation of a secure environment in the Project Area for residents, shoppers and workers, encouraging pedestrian usage during daytime, evening and weekend hours; and
4. The provision of economic benefits to the Project Area, and the entire community, through the replanning, redesign and development of currently vacant and underutilized land parcels.

RESOLUTION NO. R. A.

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF LONG BEACH, CALIFORNIA, FINDING THAT THE CONSIDERATION FOR THE SALE OF CERTAIN REAL PROPERTY IN THE DOWNTOWN LONG BEACH REDEVELOPMENT PROJECT IS NOT LESS THAN FAIR MARKET VALUE IN ACCORDANCE WITH COVENANTS AND CONDITIONS GOVERNING SUCH SALE; APPROVING THE SALE OF PROPERTY TO LYON PROMENADE, LLC; APPROVING THE FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT PERTAINING THERETO; AND AUTHORIZING THE EXECUTION OF THE FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT

WHEREAS, the Redevelopment Agency of the City of Long Beach, California (the "Agency"), is engaged in activities necessary to execute and implement the Redevelopment Plan for the Downtown Long Beach Redevelopment Project (the "Project"); and

WHEREAS, in order to implement the Redevelopment Plan, the Agency proposes to sell certain real property (the "Property") in the Project, which Property is described in Exhibit "A" which is attached and incorporated by reference; and

WHEREAS, pursuant to Redevelopment Agency Resolution No. 31-2006, the Agency approved a Disposition and Development Agreement for the sale of the Property; and

WHEREAS, Lyon Promenade, LLC (the "Developer") has submitted a

First Amendment to Disposition and Development Agreement to purchase the Property for not less than fair market value for uses in accordance with the Redevelopment Plan and the covenants and conditions of the First Amendment to Disposition and Development Agreement; and

WHEREAS, the proposed First Amendment to Disposition and Development Agreement contains all the provisions, terms and conditions and obligations required by Federal, State and local law; and

WHEREAS, Developer possesses the qualifications and financial resources necessary to acquire and insure development of the Property in accordance with the purposes and objectives of the Redevelopment Plan; and

WHEREAS, Agency has prepared a summary setting forth the cost of the First Amendment to Disposition and Development Agreement to the Agency, the estimated value of the interest to be conveyed, determined at the highest uses permitted under the Redevelopment Plan and the purchase price and has made the summary available for public inspection in accordance with the California Redevelopment Law; and

WHEREAS, the Agency has certified Mitigated Negative Declaration No. 08-05 pursuant to the California Environmental Quality Act; and

WHEREAS, pursuant to the provisions of the California Community Redevelopment Law, the Agency held a public hearing on the proposed sale of the Property and the proposed First Amendment to Disposition and Development Agreement after publication of notice as required by law; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed sale and has found that the redevelopment of the Property pursuant to the proposed First Amendment to Disposition and Development Agreement is in the best interests of the City and the health, safety, morals and welfare of its residents and in accord with the public purposes and provisions of applicable Federal, State and local law;

NOW, THEREFORE, the Redevelopment Agency of the City of Long Beach, California resolves as follows:

Section 1. The Agency has previously certified Mitigated Negative Declaration No. 08-05 pursuant to the California Environmental Quality Act.

Section 2. The Agency finds and determines that the consideration for sale of the Property pursuant to the First Amendment to Disposition and Development Agreement is not less than fair market value in accordance with covenants and conditions governing the sale.

Section 3. The sale of the Property by the Agency to Developer and the First Amendment to Disposition and Development Agreement which establishes the terms and conditions for the sale and development of the Property are approved.

Section 4. The sale and development of the Property shall eliminate blight within the Project Area and is consistent with the implementation plan for the Project adopted pursuant to Health and Safety Code Section 33490.

Section 5. The Executive Director of the Agency is authorized to execute the First Amendment to Disposition and Development Agreement (including attachments).

Section 6. The Executive Director of the Agency is authorized to take all steps and to sign all documents and instructions necessary to implement and carry out the First Amendment to Disposition and Development Agreement on behalf of the Agency.

APPROVED AND ADOPTED by the Redevelopment Agency of the City of
Long Beach, California this ____ day of _____, 2007.

Executive Director/Secretary

APPROVED:

Chair

HAM:fl
5/4/2007
#06-02904

EXHIBIT A

LEGAL DESCRIPTION OF THE SITE

THE LAND REFERRED TO HEREIN IS SITUATED IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

LOTS 2, 4, 6, 8, 10, 12, 14, AND 16 IN BLOCK 90 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, AS PER MAP RECORDED IN BOOK 19, PAGES 91 ET SEQ. MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 2:

LOTS 17 AND 19 IN BLOCK 90 OF THE TOWNSITE OF LONG BEACH, IN THE CITY OF LONG BEACH, AS PER MAP RECORDED IN BOOK 19, PAGES 91 ET SEQ. MISCELLANEOUS RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY,

EXCEPT THE WESTERLY 20 FEET OF SAID LOTS 17 AND 19.

ALSO EXCEPT THE SOUTHERLY 1.16 FEET OF THE EASTERLY 150 FEET OF SAID LOT 19.

PARCEL 3:

THAT PORTION OF MAPLE WAY VACATED BETWEEN THE EASTERLY EDGE OF WAITE COURT RIGHT-OF-WAY AND THE WESTERLY EDGE OF LONG BEACH BOULEVARD RIGHT-OF-WAY, CITY OF LONG BEACH.