

OVERSIGHT BOARD RESOLUTION NUMBER OB-2012-37

A RESOLUTION OF THE OVERSIGHT BOARD FOR THE CITY OF SAN DIEGO REDEVELOPMENT SUCCESSOR AGENCY APPROVING FIRST AMENDMENT TO THE OWNER PARTICIPATION AGREEMENT WITH COMM22 HOUSING GP, LLC AND COMM22 FAMILY HOUSING L.P., RELATED TO THE COMM22 MIXED-USE MASTER DEVELOPMENT PROJECT TO BE LOCATED ALONG THE SOUTH SIDE OF COMMERCIAL STREET BETWEEN 21ST STREET AND HARRISON AVENUE IN LOGAN HEIGHTS.

WHEREAS, the former Redevelopment Agency of the City of San Diego (Former RDA) administered the implementation of various redevelopment projects, programs, and activities within designated redevelopment project areas throughout the City of San Diego (City); and

WHEREAS, in accordance with Assembly Bill x1 26 (AB 26), the Former RDA dissolved as of February 1, 2012, at which time the City of San Diego, solely in its capacity as the designated successor agency to the Former RDA (Successor Agency), assumed the Former RDA's assets and obligations; and

WHEREAS, the Successor Agency is required to administer the winding down of the Former RDA's operations and to ensure compliance with the Former RDA's obligations in accordance with AB 26, as amended by Assembly Bill 1484 (AB 1484); and

WHEREAS, before the enactment of AB 26 in June 2011, the Former RDA and COMM22 Housing GP, LLC, a California limited liability company (Developer), executed that certain Owner Participation Agreement (OPA) regarding development of a mixed-use, transit-oriented project, to be known as COMM22, located on a four-acre site along the south side of Commercial Street between 21st Street and Harrison Avenue in the Logan Heights neighborhood; and

WHEREAS, the site is owned by the San Diego Unified School District (SDUSD) and leased to the Developer; and

WHEREAS, in December 2011, the Developer assigned its OPA rights, obligations and duties to COMM22 Family Housing, L.P. (Family Developer), a California nonprofit public benefit corporation comprised of BRIDGE Housing Corporation (BRIDGE) and Metropolitan Area Advisory Committee on Anti-Poverty of San Diego, Inc. (MAAC Project) (hereinafter, collectively referred to as Developer); and

WHEREAS, under the OPA, the COMM22 master development was to consist of 130 family rental housing units (including 128 affordable units, of which 13 would be made available at an Affordable Rent and occupied by Extremely Low Income households (the Extremely Low Income Units), plus two manager's units with no affordability restrictions), 70 senior rental housing units (including 69 affordable units, plus one manager's unit with no affordability restrictions), a child care facility, community-serving commercial and retail space, market-rate live-work lofts/office space, 17 for-sale row homes, parking, and significant associated infrastructure improvements; and

WHEREAS, to assist in financing the Developer's completion of the affordable family rental housing units (Project), a component of the larger COMM22 master development, the OPA contemplates the Former RDA's issuance of a loan in an amount up to \$9,255,000 (Agency Loan), to be applied toward construction of the affordable family rental housing units, subject to the terms of the OPA; and

WHEREAS, the OPA requires the Developer, upon completion of the construction of the family rental housing units, to make the 128 affordable units available for occupancy by Extremely Low, Very Low and Low Income households for a period of fifty-five (55) years; and

WHEREAS, the Developer initially estimated that the total costs of the Project would be approximately \$52,734,402 during the construction financing period and approximately \$54,865,000 during the permanent financing period, but has recently indicated that the Project's direct and indirect development costs have increased by \$1,658,112 to \$54,392,514 during the construction financing period and \$1,606,866 to \$56,472,253 during the permanent financing period; and

WHEREAS, the Developer initially estimated that the total costs of the Project to be financed by a Senior Lender (as defined in the OPA) would be \$25,367,000 in the form of a Construction Loan during the construction period and \$3,349,000 in the form of a Permanent Loan during the permanent financing period, but due to the Project's increased direct and indirect development costs, the total costs to be financed by Senior Lender have now been revised to \$28,000,000 and \$3,590,682, respectively; and

WHEREAS, the OPA contemplates that the Agency Loan would be subordinate to the senior loan values identified in the OPA, and the Senior Lender has requested that the Agency Loan will be subordinate to the increased amount of the Senior Lender's combined construction and permanent loans; and

WHEREAS, there is no proposed change to the Agency Loan amount of \$9,255,000; and

WHEREAS, the Senior Lender has further requested that in the event of foreclosure on the Leasehold by the Senior Lender, certain area median income (AMI) levels, established within the OPA as rental restrictions to target certain affordability levels for the residential units, be increased in order to more readily identify a replacement developer or owner to step into Developer's position; and

WHEREAS, the Developer and the Successor Agency now desire to enter into the First Amendment to the OPA (First Amendment) to amend the Project Budget to reflect the increase in Development Costs and to agree that the Agency Loan shall be subordinate to the Senior Loan (as defined in the OPA), which now includes the increased amount of Development Costs as further identified in the Amended Method of Financing and Amended Project Budget; and

WHEREAS, the Developer and Successor Agency now desire to enter the First Amendment to amend the Agreement Affecting Real Property (Including Rental Restrictions) and agree that the Extremely Low Income units shall automatically convert to Very Low Income units (as defined in the OPA) if the Senior Lender completes a foreclosure on the Leasehold, but that no change shall be applied to the units available for and restricted to Very Low Income households and Low Income households in a foreclosure scenario; and

WHEREAS, the Successor Agency has prepared a complete list of Housing Assets (Housing Assets List) to reflect the proposed transfer of Housing Assets from the Successor Agency to the Successor Housing Entity as required by California Health and Safety Code section 34181(c); and

WHEREAS, the Oversight Board authorized and directed the Successor Agency to transfer the Housing Assets as identified in the Housing Assets List, including the assets and obligations under the OPA as related to the COMM22 master development, to the City as Successor Housing Entity; and

WHEREAS, before accomplishing the transfer of Housing Assets, the Successor Agency will await the outcome of the DOF's review, in accordance with California Health and Safety Code section 34181(f), concerning the Oversight Board's decision to approve the transfer of Housing Assets.

NOW, THEREFORE, BE IT RESOLVED by the Oversight Board as follows:

1. The First Amendment to the OPA and all attachments thereto are approved.

PASSED AND ADOPTED by the Oversight Board at a duly noticed meeting of the Oversight Board held on December 4, 2012.



Chair, Oversight Board