



Staff Report

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF FIRST AMENDMENT TO DISPOSITION, DEVELOPMENT AND OWNER PARTICIPATION AGREEMENT WITH BELMONT VIEW, INC.

Honorable Chair and Board Members:

Summary

Approval of the attached resolution will authorize execution of the first amendment to the Agreement with Belmont View, Inc. for the sale of property on Civic Lane.

Background

On January 22, 2008, the Board authorized execution of a Disposition, Development and Owner Participation Agreement with Mr. Kamangar's company, Belmont View, Inc., ("Developer") of 1300 El Camino Real to revise the project for improved integration with Firehouse Square Target Economic Development Site. At that meeting, staff was also authorized to negotiate the sale of a portion of Civic Lane, granting of access/easement rights on Civic Lane, and financial considerations for ramp improvements, project delay, and utility relocations within Civic Lane.

In mid-April, staff reported in closed session that the Agency received a preliminary title report on the Civic Lane property which it intended to sell to Belmont View, Inc. That report indicated that the Agency only owns to the center line of the alley. For the parcel in question, the Developer owns the other 50%.

The Developer is aware of this information and is prepared to proceed with this project and the acquisition of the Agency's remaining 50%. Towards that end, the Agency intends to modify the agreement for sale as was described in the Disposition, Development & Owner Participation Agreement.

The Preliminary Title Report further discloses that the City holds an easement over the alley. As required by Ordinance, the City will need to vacate this easement prior to final transfer of ownership to Belmont View, Inc. This is an action that requires Planning Commission approval.

Discussion

Since the Developer already owns the eastern half of the alley, the attached Amendment states that Belmont View, Inc. will purchase only the western half of the Property from the Agency.

The fair market value of the Property, unencumbered by easements, is between zero and \$49,600, making each half of the Property worth, at most, \$24,800.

The Amendment further establishes that the Developer will be entitled to the easement for pedestrian and vehicular ingress and egress over the alley, including the eastern half owned by the Developer. The Agency and the Developer agree that this consideration is equal to the fair market value of the Agency's western half of the Property in that, although the Agency gives up the fee ownership of the western half of the alley, it retains the right to use that half in perpetuity for purposes of pedestrian and vehicular access, ingress and egress, and acquires a right to use the eastern half in perpetuity for the pedestrian and vehicular access, ingress and egress.

The attached Amendment also compensates the Developer for twelve months of project delays. The Agency has already authorized five months of project delays at \$3,500 per month.

The Developer has been apprised of the approach to resolve the matters discussed in this report and is supportive of this Amendment.

General Plan/Vision Statement

Distinctive Community Character

- Its small-town ambience sets it apart as a tranquil, safe and desirable place to live.

Natural Beauty

- Our natural surroundings inspire us to play, create, and contemplate.
- Our actions today preserve and enhance Belmont's beauty to make it even lovelier for our grandchildren.

Fiscal Impact

The Agency will contribute \$86,970 towards the cost of the construction of the ramp. In addition, the Agency will transfer its ownership in the western half of the Civic Lane Property to the Developer. In return, the Agency retains the right to use the ramp in perpetuity for purposes of pedestrian and vehicular access, ingress and egress.

Public Contact

Posting of Redevelopment Agency agenda.

Recommendation

Staff recommends adopting the attached Resolution.

Alternatives

1. With direction, request staff to negotiate alternative terms and conditions.
2. Take no action.

Attachments

- A. Resolution Approving and Authorizing Execution of the First Amendment to the Disposition, Development and Owner Participation Agreement with Belmont View, Inc.
- B. First Amendment to the Disposition, Development and Owner Participation Agreement with Belmont View, Inc.

Respectfully submitted,

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REDEVELOPMENT AGENCY RESOLUTION NO. _____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF BELMONT
APPROVING AND AUTHORIZING EXECUTION OF FIRST AMENDMENT TO
DISPOSITION, DEVELOPMENT AND OWNERSHIP PARTICIPATION AGREEMENT
WITH BELMONT VIEW, INC.**

WHEREAS, the City Council of the City of Belmont (the "City Council") has adopted the Redevelopment Plan for the Los Costanos Redevelopment Project Area (the "Project Area"), by Ordinance No. 039-91 on July 15, 1991, and as currently amended (the "Redevelopment Plan"); and,

WHEREAS, the Agency is vested with responsibility pursuant to the Community Redevelopment Law (Part 1 of Division 24 of Health and Safety Code of the State of California) (the "Law") to implement the Redevelopment Plan in the Project Area; and,

WHEREAS, the Agency and Belmont View, Inc. ("Developer") entered into a Disposition, Development and Ownership Participation Agreement ("DDOPA") with respect to a parcel (the "Developer Property") located at the corner of El Camino Real and O'Neill that is owned by Developer and the adjacent alley (the "Alley Property"). At the time the parties entered into the DDOPA, they believed that the City of Belmont owned the Alley Property. Subsequent title research has shown that the Alley Property is owned in part by the Developer and in part by the Agency. The Agency and Developer desire to amend the DDOPA to deal with the changed circumstances with respect to title to the Alley Property and to make related changes in the DDOPA as proposed in the First Amendment to the DDOPA presented to the Agency Board in connection with consideration of this Resolution ("First Amendment"); and,

WHEREAS, development of the Alley Property and Developer Property pursuant to the DDOPA would serve major Redevelopment Plan goals and objectives by alleviating the existing blight in the Project Area; and,

WHEREAS, the Agency has conducted a duly notice public hearing on the DDOPA pursuant to Health and Safety Code Section 33431 for the purpose of receiving the input and comments of the public on the DDOPA; and,

WHEREAS, the City previously considered the environmental impacts of the proposed development in connection with Developer's applications for development of the Developer Property;

NOW, THEREFORE, BE IT RESOLVED that the Redevelopment Agency of the City of Belmont approves and authorizes as follows:

1. The Agency finds and determines that the above recitals are true and correct, and together with the staff report submitted to the Agency in connection with consideration of this Resolution have served as the basis, in part, for the actions of the Agency set forth in this Resolution.

2. The Agency finds that the sale and the redevelopment of the Property pursuant to the DDOPA will assist in the elimination of blight pursuant to the Redevelopment Plan and the Law and is consistent with the implementation plan adopted by the Agency pursuant to Health and Safety Code Section 33490.

3. The Agency finds that the purchase price for the portion of the Alley Property owned by the Agency as set forth in the DDOPA as amended by the First Amendment is at least equal to the fair market value of the rights the Agency is receiving in consideration for conveyance of the portion of the Alley Property owned by the Agency in that the Agency is receiving an easement over both the portion of the Alley Property owned by the Agency and the portion owned by Developer and in that an appraisal of the fair market value of the Alley Property shows that the fair market value of the property is nominal in light of its status as a remnant and potential hazardous materials issues. This finding is based on the facts and analysis set forth in the Staff Report accompanying this Resolution.

5. The Agency hereby determines that the prevailing wage policy set forth in Agency Resolution RA-312 shall not apply to the development of the Alley Property and the Developer Property in light of the fact that Developer planned to develop the Developer Property without any participation with the Agency but agreed to include the Alley Property at the request of the Agency so as to facilitate future development of the remainder of the block and the fact that the Developer will pay fair market value for the portion of the Alley Property that it will acquire. However, pursuant to the First Amendment, the Developer will pay prevailing wages for the construction of the driveway ramp that will provide access to the properties to the south of the Developer Property and the Agency will contribute eighty-six thousand nine hundred and seventy dollars (\$86,970.00) towards the cost of the construction of the ramp that will provide to the Agency the public access rights associated with the easement the Agency will obtain over the Alley Property. The Agency hereby finds that the Agency contribution to the costs of the driveway ramp including delay costs associated with design of the ramp is not greater than the costs required to construct the ramp.

6. The Executive Director, or his designee, is authorized to take any and all actions as deemed necessary to carry out the purpose and intent of the First Amendment, the DDOPA and this Resolution, including without limitation, execution of any ancillary documents referenced in or necessary to implement the DDOPA, and providing the approvals, consents, elections, or waivers on the Agency's behalf.

7. This Resolution shall be effective immediately upon its adoption.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Redevelopment Agency of the City of Belmont at a regular meeting thereof held on May 13, 2008 by the following vote:

AYES, DIRECTORS: _____

NOES, DIRECTORS: _____

ABSTAIN, DIRECTORS: _____

ABSENT, DIRECTORS: _____

Secretary, Redevelopment Agency

APPROVED:

Chair, Redevelopment Agency